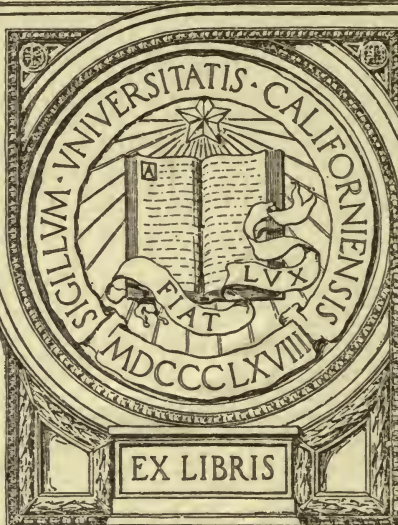




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# ELECTION LAWS

of the  
**STATE OF NORTH DAKOTA**

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## INCLUDING

NORTH DAKOTA STATE CONSTITUTION AND PROPOSED AMENDMENTS

ABSENT VOTER PRIVILEGE ACT

CALENDAR OF ELECTIONS

CORRUPT PRACTICES ACTS

COURT DECISIONS AFFECTING ELECTIONS

DIRECTORY OF STATE OFFICIALS

GENERAL ELECTION LAWS

NON-PARTISAN JUDICIARY ELECTIONS

NON-PARTISAN SCHOOL OFFICER ELECTION

PRESIDENTIAL PRIMARY ELECTION LAW

PRIMARY ELECTION LAW

PUBLICATION RATES LAW

REMOVAL OF OFFICERS LAW

U. S. ELECTION LAWS

U. S. NATURALIZATION LAWS

LEGISLATIVE, CONGRESSIONAL AND JUDICIAL DISTRICTS

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Published under Direction of  
**THOMAS HALL,**  
Secretary of State

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Preserve for Reference

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JOURNAL PUBLISHING CO.  
DEVILS LAKE, N. D.  
STATE PRINTERS  
1914



# ELECTION LAWS

OF THE

## STATE OF NORTH DAKOTA

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Including Calendar of Election Dates, Directory of State Officials, Legislative, Congressional and Judicial Districts, United States Election and Naturalization Laws, North Dakota Constitution and Proposed Amendments Thereto, Primary Election Law, Presidential Preference Primary, Non-Partisan Judiciary and School Officers Acts, Corrupt Practices Acts, Publication Rates Act, Removal of Officers Act, Absent Voter Privilege and Important Court Decisions Affecting Election Laws.

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SECRETARY OF STATE.

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1913



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1913

TO THE  
AMERICAN



## PREFACE.

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The extensive changes, during the past four sessions of the legislature, in the laws affecting elections, the rights and privileges of voters and the powers and duties of the election officers; the present inaccessability of the laws to any but the lawyer and the trained professional man; the constant demand for a statement, explanation and interpretation of the laws by voter and election officer alike; and the fact that the new codes, now in course of preparation, will not be ready for distribution until after the coming primary election, has necessitated this compilation of the election laws of the state in a compact and comprehensive form. Leading court decisions affecting the more important phases of the election laws and a chronological calendar of election dates have been added for the guidance of the voter.

Bismarck, North Dakota, January 1, 1914.

THOMAS HALL,  
Secretary of State.



# OFFICIAL DIRECTORY.

## STATE GOVERNMENT

### EXECUTIVE DEPARTMENT.

L. B. Hanna, Governor, Bismarck.  
James W. Foley, Secretary to the Governor, Bismarck.  
Clarence L. Ziegler, Stenographer, Bismarck.  
A. T. Kraabel, Lieutenant Governor, Clifford.

### DEPARTMENT OF JUSTICE.

#### State Supreme Court—

B. F. Spalding, Chief Justice, Fargo.  
Chas. J. Fisk, Associate Justice, Bismarck.  
E. T. Burke, Associate Justice, Bismarck.  
E. B. Goss, Associate Justice, Bismarck.  
Andrew A. Bruce, Associate Justice, Bismarck.  
H. A. Libby, Reporter, Park River.  
R. D. Hoskins, Clerk, Bismarck.  
E. P. Wing, State Law Librarian, Bismarck.  
Henry Newton, Stenographer, Bismarck.

### DEPARTMENT OF STATE.

Thomas Hall, Secretary of State, Bismarck.  
John Andrews, Deputy Secretary of State, Bismarck.  
Albert N. Wold, Chief Clerk, Bismarck.  
Eugene M. Walla, Motor Vehicle Registration Clerk, Jamestown.  
Frank Wilder, Recording Clerk, Mandan.  
Mabel W. Amlot, Stenographer, Bismarck.  
Christine S. Laist, Stenographer, Bismarck.  
Karl Peterson, Stenographer, Bismarck.

Taylor O. Thompson, Document Clerk, Minot.  
Dena B. Anderson, Stenographer, Bismarck.

### AUDITOR'S DEPARTMENT.

Carl O. Jorgenson, State Auditor, Milnor.  
J. H. Nelson, Deputy State Auditor, Bismarck.  
W. C. Edwards, Chief Clerk, Bismarck.  
D. McPhee, Clerk, Bismarck.  
Lyle Yegen, Clerk, Bismarck.

### TREASURER'S DEPARTMENT.

Gunder Olson, State Treasurer, Bismarck.  
T. H. Tharalson, Deputy, Bismarck.  
Jorgen Howard, Clerk, Hillsboro.  
Gilbert Gunderson, Clerk, Rugby.  
Mary Brosnahan, Stenographer, Bismarck.

### INSURANCE DEPARTMENT.

Walter C. Taylor, Commissioner, Bismarck.  
W. D. Austin, Deputy, Bismarck.  
Dora Michelson, Chief Clerk, Bismarck.  
Lella Diesem, Clerk, Bismarck.  
Mary H. Clark, Stenographer, Bismarck.

### HAIL DEPARTMENT.

Thos. Sheehan, Deputy Hail Insurance Commissioner, Bismarck.  
Mary Hancock, Stenographer, Bismarck.

### FIRE MARSHAL DEPARTMENT.

A. H. Runge, Fire Marshal, Bismarck.  
H. L. Reade, Deputy Fire Marshal, Bismarck.

### LEGAL DEPARTMENT.

Andrew Miller, Attorney General, Bismarck.  
Alfred Zuger, Assistant, Bismarck.  
John Carmody, Assistant, Bismarck.  
B. F. Tillotson, Clerk, Bismarck.  
Elizabeth Murphy, Stenographer, Bismarck.

## DEPARTMENT OF PUBLIC INSTRUCTION.

E. J. Taylor, Superintendent of Public Instruction, Bismarck.  
 W. E. Parsons, Deputy, Bismarck.  
 William Moore, Clerk, Bismarck.  
 Alice Olson, Clerk, Bismarck.  
 Olive Proctor, Stenographer, Bismarck.

## DEPARTMENT OF AGRICULTURE AND LABOR.

W. C. Gilbreath, Commissioner, Bismarck.  
 Wellington Irysh, Deputy, Bismarck.  
 Geo. McPherson, Chief Clerk, Bismarck.  
 R. F. Flint, Dairy Commissioner, Bismarck.  
 E. H. Pierce, Assistant Dairy Commissioner, Bismarck.  
 E. A. Greenwood, Assistant Dairy Commissioner, Bismarck.  
 R. C. Jackson, U. S. Scientific Dairyman, Grafton.  
 E. S. Neal, Immigration Commissioner, Bismarck.  
 R. H. Thistlethwaite, Clerk, Bismarck.  
 Clara E. Stevens, Stenographer, Bismarck.  
 Margaret Brown, Stenographer, Bismarck.  
 May Swift, Stenographer, Bismarck.

## COMMISSIONERS OF RAILROADS.

W. H. Stutsman, President, Mandan.  
 O. P. N. Anderson, Starkweather.  
 W. H. Mann, New Salem.  
 W. F. Cushing, Secretary, Bismarck.  
 H. R. Clough, Clerk, Bismarck.  
 C. H. Olson, Stenographer, Bismarck.

## LAND DEPARTMENT.

Board of University and School Lands—Governor, Secretary of State,  
 Superintendent of Public Instruction, Attorney General, State Auditor.  
 Frank S. Henry, Commissioner, Bismarck.  
 H. L. Simmons, Deputy, Bismarck.  
 Walter E. Sellens, Mortgage and Bond Clerk, Bismarck.  
 Gilbert Haugen, Lease Clerk, Bismarck.  
 Lindley H. Patten, Clerk, Bismarck.  
 C. B. Heinemeyer, Clerk, Bismarck.  
 Lydia Keithahn, Stenographer, Bismarck.  
 Alice Holland, Stenographer, Bismarck.

## DEPARTMENT OF STATE EXAMINER.

S. G. Severtson, State Examiner, Bismarck.  
 G. J. Johnson, Chief Deputy, Bismarck.  
 E. A. Thorberg, Deputy, Mandan.  
 K. C. Nelson, Deputy, Lakota.  
 C. E. Forrest, Deputy, Bismarck.  
 I. E. Hansen, Deputy, Jamestown.  
 P. E. Halldorsen, Deputy, Bismarck.  
 R. D. Beery, Deputy, Mott.  
 Chas. E. Markley, Deputy, Pleasant Lake.  
 A. Johannsen, Deputy, Minot.  
 B. J. Schoregge, Deputy, Williston.

## STATE TAX COMMISSION.

Luther E. Birdzell, Chairman, term expires May 1, 1915.  
 Frank E. Packard, term expires May 1, 1917.  
 George E. Wallace, term expires May 1, 1919.  
 C. R. Kositzky, Secretary, Bismarck.  
 Wm. V. Kiebert, Chief Clerk, Bismarck.  
 L. A. Baker, Field Agent, Bismarck.  
 Fanny Slattery, Stenographer, Bismarck.  
 Odessa Williams, Stenographer, Bismarck.

## BOARD OF CONTROL, STATE INSTITUTIONS.

(Penal and Charitable.)

R. S. Lewis, Chairman, Fargo, N. D., term expires March 1, 1915.  
 F. O. Brewster, Harvey, N. D., term expires March 1, 1915.  
 J. W. Jackson, Williston, N. D., term expires March 1, 1915.  
 Ernest G. Wanner, Secretary, Valley City, N. D.  
 Fred J. Grady, Chief Clerk, St. John, N. D.  
 Address of Board, Bismarck.



## STATE PENAL AND CHARITABLE INSTITUTIONS AND EXECUTIVE HEADS.

State Penitentiary, Bismarck—F. S. Talcott, Warden.  
 State Institution for Feeble Minded, Grafton—A. R. T. Wylie, Superintendent.  
 State Hospital for Insane, Jamestown—W. M. Hotchkiss, Superintendent.  
 State Blind Asylum, Bathgate—B. P. Chapple, Superintendent.  
 Reform School, Mandan—J. W. Brown, Superintendent.  
 School for the Deaf, Devils Lake—J. W. Blattner, Superintendent.  
 Tuberculosis Sanitarium, Dunseith, Dr. J. G. Lamont, Superintendent.

## NORTH DAKOTA STATE PUBLIC LIBRARY COMMISSION.

## Members Appointed by the Governor:

A. E. Sheets, Lakota, President. Term expires March 10, 1915.  
 Mrs. Clara L. Darrow, Fargo. Term expires April 1, 1919.

## Members Ex-Officio:

O. G. Libby, Grand Forks, Secretary State Historical Society.  
 E. J. Taylor, Bismarck, State Superintendent of Public Instruction.  
 R. A. Nestos, Minot, President State Library Association.

## Staff:

Mrs. Minnie Clarke Budlong, Bismarck, Secretary of Commission and Director of Library Extension.  
 I. A. Acker, Bismarck, Legislative Reference Librarian.  
 Florence MacPhee, Bismarck, Chief Traveling Library Department.  
 Haldora Peterson, Bismarck, Stenographer.  
 Elsie Smith, Bismarck, Clerk.

## STATE ENGINEER'S DEPARTMENT

J. W. Bliss, State Engineer.  
 Ruby Schuman, Stenographer.

## MILITARY DEPARTMENT.

I. A. Berg, Adjutant General, Grand Forks.  
 Major R. R. Steedman, U. S. A. Retired, Military Secretary, Bismarck.  
 Lieut. F. H. Turner, Inspector-Instructor, Bismarck.  
 William F. Harris, Chief Clerk, Bismarck.  
 Colonels and Aids-de-camp:  
 Gilbert W. Davis, Fargo.  
 C. E. Batchellor, Fingal.  
 D. Lemieux, Dunseith.  
 Henry Hale, Devils Lake.  
 Oscar Knudson, Grand Forks.  
 Alex. Scarlett, Minot.

## STATE HISTORICAL SOCIETY.

## Officers of Society.

Hon. Chas. F. Amidon, Fargo, President.  
 C. B. Little, Bismarck, Vice President.  
 J. L. Cashel, Grafton, Treasurer.  
 O. G. Libby, Grand Forks, Secretary.  
 H. C. Fish, Curator, Bismarck.  
 Elina Thorsteinson, Librarian, Bismarck.

## Directors.

J. L. Bell, Bismarck, term expires March 31, 1917.  
 W. H. Mann, New Salem, term expires March 31, 1915.  
 Chas. J. Fisk, Bismarck, term expires March 31, 1917.  
 John M. Gillette, Grand Forks, term expires March 31, 1917.  
 W. B. Overson, Williston, term expires March 31, 1917.  
 N. G. Larimore, Larimore, term expires March 31, 1915.  
 H. J. Hagen, Abercrombie, term expires March 31, 1917.  
 Dr. J. D. Taylor, Grand Forks, term expires March 31, 1917.  
 L. F. Crawford, Sentinel Butte, term expires March 31, 1915.  
 F. A. Wardwell, Pembina, term expires March 31, 1917.  
 W. H. White, Fargo, term expires March 31, 1917.  
 Sveinbjorn Johnson, Cavalier, term expires March 31, 1917.  
 Ex-officio Directors—Governor, Auditor, Secretary of State, Superintendent of Public Instruction, Commissioner of Agriculture and Labor.

## STATE CAPITOL.

Capitol Building—Jacob Rieder, superintendent, Bismarck.

## TRUSTEES STATE UNIVERSITY, GRAND FORKS.

N. C. Young, Fargo, term expires first Tuesday in April, 1917.  
 W. H. Hutchinson, LaMoure, term expires first Tuesday in April, 1915.  
 Karl J. Farup, Park River, term expires first Tuesday in April, 1917.  
 Tracy R. Bangs, Grand Forks, term expires first Tuesday in April, 1915.  
 Fred L. Goodman, Grand Forks, term expires first Tuesday in April, 1917.

## TRUSTEES AGRICULTURAL COLLEGE, FARGO.

C. E. Nugent, President, Fargo, term expires 1915.  
 George H. Hollister, Fargo, term expires 1915.  
 Clark W. Kelly, Devils Lake, term expires 1915.  
 Peter Elliott, Fargo, term expires 1915.  
 Alex Stern, Fargo, term expires 1917.  
 Eugene Weigel, Hebron, term expires 1917.  
 J. Fred Jensen, Westhope, term expires 1917.  
 W. A. Yoder, Secretary.  
 Fred Irish, Treasurer.

## TRUSTEES ACADEMY OF SCIENCE, WAHPETON.

John J. Zentgraf, Wahpeton, term expires first Tuesday in April, 1915.  
 Chas. Quinn, Wahpeton, term expires first Tuesday in April, 1915.  
 John B. Wagner, Lidgerwood, term expires first Tuesday in April, 1915.  
 W. E. Clark, Tower City, term expires first Tuesday in April, 1917.  
 R. S. Miller, Gackle, term expires first Tuesday in April, 1917.

## TRUSTEES INDUSTRIAL SCHOOL, ELLENDALE.

H. H. Perry, Ellendale, term expires third Monday in February, 1915.  
 Richard McCarten, Cogswell, term expires third Monday in February, 1915.  
 Fred S. Goddard, Ellendale, term expires third Monday in February, 1917.  
 D. E. Geer, Ellendale, term expires third Monday in February, 1917.  
 Chester R. Hodge, Jamestown, term expires third Monday in February, 1915.

## DIRECTORS SCHOOL OF FORESTRY, BOTTINEAU.

Frank Peltier, Rolette, term expires first Tuesday in April, 1915.  
 A. R. McKay, Bottineau, term expires first Tuesday in April, 1915.  
 S. W. Wheelon, Towner, term expires first Tuesday in April, 1917.

## STATE NORMAL BOARD OF CONTROL.

H. A. Nelson, Nesson, term expires March 14, 1915.  
 F. A. Wilson, Bathgate, term expires March 14, 1915.  
 Hugh MacDonald, Valley City, term expires March 14, 1915.  
 R. N. Rishworth, McClusky, term expires first Tuesday in April, 1917.  
 J. M. Devine, Minot, term expires first Tuesday in April, 1917.  
 M. L. Elken, Mayville, term expires first Tuesday in April, 1917.  
 E. J. Taylor, Superintendent of Public Instruction, ex-officio.

## STATE BOARD OF EDUCATION.

E. J. Taylor, Superintendent of Public Instruction, Bismarck, President, ex-officio.  
 F. L. McVey, President State University, Grand Forks, ex-officio.  
 J. H. Worst, President Agricultural College, Fargo, ex-officio.  
 Richard Heyward, High School Inspector, Grand Forks, ex-officio.  
 N. C. Macdonald, Rural School Inspector, Valley City, ex-officio.  
 T. A. Hillyer, President State Normal School, Mayville, term expires April 6, 1915.  
 F. E. Smith, President State Science School, Wahpeton, term expires April 6, 1915.  
 Miss Mamie Sorenson, County Superintendent, Cando, term expires April 6, 1915.  
 L. F. Crawford, Sentinel Butte, term expires April 6, 1915.  
 W. E. Parson, Deputy Superintendent of Public Instruction, ex-officio.  
 Secretary to the Board.



## STATE AGRICULTURAL AND TRAINING SCHOOL BOARD.

President of the Agricultural College.

State Superintendent of Public Instruction.

H. U. Thomas, Oberon, term expires March 3, 1915.

J. H. Matthews, Larimore, term expires March 3, 1914.

Gilbert Erickson, Lankin, term expires March 3, 1916.

## DIRECTORS AGRICULTURAL EXPERIMENT STATIONS

All experiment stations under the direction of Agricultural College. Superintendents appointed by same. Sub-stations located at Dickinson, Williston, Langdon, Edgley and Hettinger.

Dickinson, L. R. Waldron, superintendent.

Williston, E. G. Schollander, superintendent.

Langdon, E. D. Stewart, superintendent.

Edgley, O. A. Thompson, superintendent.

Hettinger, W. R. Lanxon, superintendent.

## FARMERS' INSTITUTE BOARD OF DIRECTORS.

J. H. Shepperd, Fargo; C. E. Nugent, Fargo; J. H. Worst, Fargo; G. L. Martin, Fargo; W. C. Gilbreath, Bismarck.

## EDUCATIONAL DIRECTORY.

University of North Dakota, Grand Forks; established 1883; opened 1884; Franklin McVey, president.

Agricultural College, Fargo; established 1890; opened 1890; John H. Worst, president.

Normal School Valley City; established 1890; opened 1893; George A. McFarland, president.

Normal School, Mayville; established 1890; opened 1893; Thomas A. Hillyer, president.

Normal School, Minot; established 1913; opened 1913; A. G. Crane, President.

State Industrial School, Ellendale; established 1890; opened 1899; Willis E. Johnson, president.

Academy of Science, Wahpeton; established 1890; opened 1890; Fred. E. Smith, President.

School of Forestry, Bottineau; W. J. Alexander, president.

School Inspection: R. Heyward, High School Inspector, Grand Forks; N. C. Macdonald, Rural, Graded and Consolidated School Inspector, Valley City.

Board of University and School Lands—All members ex-officio—President, L. B. Hanna, governor; vice-president, Thos. Hall, secretary of state; secretary, E. J. Taylor, superintendent of public instruction; Carl O. Jorgenson, state auditor; Andrew Miller, Attorney General.

## TRUSTEES SOLDIERS' HOME, LISBON.

Alexander Hay, Wahpeton, term expires March 10, 1917.

D. F. Siegfried, Fargo, term expires March 14, 1915.

Myron T. Davis, Lisbon, term expires March 14, 1916.

\*James Cassidy, Lisbon, term expires March 19, 1917, (\*to fill vacancy caused by death of Hon. C. W. Buttz.)

G. B. Vallandigham, Valley City, Commander of the State G. A. R., ex-officio.

## STATE GAME AND FISH BOARD OF CONTROL.

Charles Brewer, Secretary, Fargo, term expires April 1, 1917.

W. E. Byerly, Velva, term expires July 1, 1915.

J. P. Reeve, Beach, term expires April 1, 1917.

E. B. McCutcheon, Minot, Game Warden, District No. 1.

W. F. Reko, Mandan, Game Warden, District No. 2.

## STATE FISH COMMISSIONER.

R. W. Main, St. John, term expires July 15, 1915.

## NORTH DAKOTA CONSERVATION COMMISSION

L. B. Hanna, Governor.

A. G. Leonard, Ph. D., State Geologist. Grand Forks.

Jay W. Bliss, State Engineer.

\_\_\_\_ Vacancy.

\_\_\_\_ Vacancy.

## STATE BOARD OF MEDICAL EXAMINERS.

H. G. Woutat, Grand Forks, term expires August 1, 1915.  
 A. G. Patterson, Lisbon, term expires August 1, 1913.  
 A. W. Skelsey, Fargo, term expires August 1, 1913.  
 Francis Peake, Jamestown, term expires August 1, 1913.  
 Geo. M. Williamson, Grand Forks, term expires August 1, 1913.  
 Paul Sorkness, Fargo, term expires August 1, 1914.  
 A. J. McCannel, Minot, term expires August 1, 1914.  
 J. E. Countryman, Grafton, term expires August 1, 1914.  
 F. G. Benn, Kulm, term expires August 1, 1915.

## STATE BOARD OF HEALTH.

Andrew Miller, president ex-officio, Bismarck.  
 Dr. A. M. Call, Rugby, vice-president, term expires first Tuesday in April, 1915.  
 Dr. C. J. McGurran, Devils Lake, Secretary, term expires first Tuesday in April, 1915.

## BOARD OF BAR EXAMINERS

Emerson H. Smith, Chairman, Fargo, term expires February 18, 1915.  
 Jeff M. Meyers, Grafton, term expires February 18, 1917.  
 H. A. Bronson, Grand Forks, term expires February 18, 1919.  
 R. D. Hoskins, Clerk Supreme Court, Bismarck, ex-officio secretary and treasurer.  
 For time and place of meeting, address the secretary.

## BAR ASSOCIATION OF NORTH DAKOTA.

A. G. Divet, Wahpeton, president.  
 John Knauf, Jamestown, vice president.  
 W. H. Stutsman, Mandan, secretary and treasurer.

## STATE BOARD OF OSTEOPATHIC EXAMINERS.

Joseph W. Tarr, Lidgerwood, term expires July 1, 1916.  
 R. A. Bolton, Jamestown, term expires Nov. 9, 1914.  
 Geo. E. Hodge, Grand Forks, term expires, May. 6, 1915.

## STATE BOARD OF PHARMACY.

Walter Master, Willow City, term expires March 22, 1918.  
 W. P. Porterfield, Fargo, term expires September 17, 1917.  
 H. L. Haussaman, Grafton, term expires August 12, 1918.  
 W. S. Parker, Secretary, Lisbon, term expires September 22, 1914.  
 Burt Finney, Bismarck, term expires April 5, 1916.

## STATE BOARD OF DENTAL EXAMINERS.

L. L. Eckman, Grand Forks, term expires April 26, 1914.  
 G. A. Rawlings, Bismarck, term expires March 11, 1915.  
 F. A. Bricker, Fargo, term expires March 27, 1916.  
 W. E. Hocking, Devils Lake, term expires April 22, 1917.  
 F. W. Rose, Cooperstown, term expires May 27, 1918.

## OPTOMETRY BOARD.

Thomas Porte, Grand Forks, term expires April 22, 1916.  
 R. B. Newton, Fargo, term expires April 22, 1916.  
 A. G. Tellner, Jamestown, term expires April 22, 1916.  
 C. G. Conyne, Mandan, term expires April 22, 1916.  
 Louis Hanson, Devils Lake, term expires April 22, 1916.

## STATE BOARD OF BARBER EXAMINERS.

A. N. Eckler, Minot, term expires November 9, 1913.  
 John C. Dolan, Bismarck, term expires November 9, 1913.  
 Edward Richardson, Devils Lake, term expires November 9, 1913.

## STATE BOARD OF EMBALMERS.

W. M. Chandler, Grafton, term expires May 27, 1917.  
 Chas. J. Weagent, Minot, term expires January 31, 1915.  
 Porter W. Eddy, Jamestown, term expires January 31, 1915.

## STATE BOARD OF VETERINARY MEDICAL EXAMINERS.

A. T. Elliott, Milton, term expires July 1, 1915.  
 C. H. Babcock, Secretary, New Rockford, term expires May 21, 1916.  
 Frank H. Farmer, Wahpeton, term expires May 20, 1914.

## LIVE STOCK SANITARY BOARD.

Dr. E. J. Walsh, President, Minot, term expires April 1, 1915.  
Andrew Veitch, Vice President, Grand Forks, term expires April 1, 1917.  
W. L. Richards, Secretary, Dickinson, term expires April 1, 1916.  
Dr. J. W. Robinson, Garrison, term expires April 1, 1914.  
T. B. Dawson, LaMoure, term expires April 1, 1912.  
Dr. W. F. Crewe, Executive Officer and State Veterinarian, Bismarck.  
Dr. L. Van Es, Bacteriologist, Agricultural College.  
Helen McGillis, Clerk, Bismarck.

## STALLION REGISTRATION BOARD.

Professor of animal husbandry of the Agricultural College, ex-officio secretary and executive officer; professor of veterinary science of Agricultural College; commissioner of agriculture and labor; president state live stock sanitary board; president North Dakota live stock association.

## STATE OIL INSPECTOR

T. W. Jackman, Fargo, term expires April 1, 1915.

## DEPUTIES

R. J. Hughes, Wahpeton.  
E. M. Jones, Hankinson.  
J. B. Little, Mott.  
Geo. Hill, Ardoch.  
John Bishof, Zeeland.  
J. M. Kellogg, Oakes.  
Geo. N. Keniston, Hettinger.  
C. C. Williams, Ellendale.  
C. W. Leathart, Fairmount.  
A. W. Cray, Minot.  
M. W. Day, Grand Forks.  
Carl Holzer, Fargo.  
S. E. Ellingson, Havana.  
J. R. Waters, Beach.

## PANAMA PACIFIC EXPOSITION COMMISSION.

Governor.  
Commissioner of Agriculture and Labor.  
A. Hilliard, Dickinson.  
P. J. McClory, Devils Lake.  
Axel Egeland, Bisbee.  
E. F. Gilbert, Casselton.  
John E. Paulson, Hillsboro.

## NORWAY CENTENNIAL COMMISSION.

C. W. Plain, Milton.  
H. H. Steele, Mohall.  
A. A. Stenejhem, Arnegard.  
A. J. Kookeide, Churchs Ferry.  
Nels Lunneborg, Milnor.  
Alfred Gabrielson, Manager, Fargo.

## TRUSTEES TEACHER'S INSURANCE AND RETIREMENT FUND.

E. J. Taylor, State Superintendent.  
Gunder Olson State Treasurer, Ex-Officio.  
Clara Struble, Grand Forks, term expires, July 1, 1914.  
P. S. Berg, Dickinson, term expires, July 1, 1915.  
J. A. Haig, Devils Lake, term expires, July 1, 1916.

## WHITE STONE HILL COMMISSION.

J. B. Taylor, Ellendale, term expires, July 1, 1915.  
J. C. Wilson, Merricourt, term expires, July 1, 1915.  
Lee Northrop, Merricourt, term expires, July 1, 1915.

## PROBATE CODE COMPILATION COMMISSION.

A. G. Hanson, Fargo, term expires March 14, 1915.  
Geo. E. Wallace, Wahpeton, term expires March 14, 1915.  
Charles Ego, Lisbon, term expires March 14, 1915.



## STATE BOARD OF CANVASSERS.

## PRIMARY ELECTIONS.

R. D. Hoskins, Clerk of Supreme Court.

Thomas Hall, Secretary of State.

E. J. Taylor, Superintendent of Public Instruction.

Chairman Republican State Central Committee.

Chairman Democratic State Central Committee.

Meets on the first Tuesday in September following a primary election.  
For a Presidential Primary meets first Tuesday in May, following such election.

## STATE BOARD OF CANVASSERS.

## GENERAL ELECTIONS.

Thomas Hall, Secretary of State.

Carl O. Jorgenson, State Auditor.

Gunder Olson, State Treasurer.

Andrew Miller, Attorney General.

E. J. Taylor, Superintendent of Public Instruction.

When a member of the board is a candidate for office as to which votes are to be canvassed by him, the governor is required to designate some other state officer to act in his stead.

Meets on the second Tuesday in December, next after a general election and within forty days after a special election.

## STATE BOARD OF EQUALIZATION.

L. B. Hanna, Governor.

Carl O. Jorgenson, State Auditor.

Gunder Olson, State Treasurer.

Andrew Miller, Attorney General.

W. C. Gilbreath, Commissioner of Agriculture and Labor..

Sessions of board begin on first Tuesday in August each year.

## STATE EMERGENCY COMMISSION.

L. B. Hanna, Governor.

Thomas Hall, Secretary of State.

Carl O. Jorgenson, State Auditor.

## STATE BOARD OF PARDONS.

L. B. Hanna, Governor, ex-officio.

B. F. Spalding, Chief Justice, ex-officio.

Andrew Miller, Attorney General, ex-officio.

E. Smith Petersen, Park River, term expires May 6, 1915.

Emil Scow, Bowman, term expires May 6, 1915.

## BOARD OF EXPERTS, INDETERMINATE SENTENCE.

Warden, physician and chaplain of penitentiary and W. P. Macomber, Wilton.

## STATE AUDITING BOARD.

L. B. Hanna, Governor.

Carl O. Jorgenson, State Auditor.

Andrew Miller, Attorney General.

Thomas Hall, Secretary of State.

Gunder Olson, State Treasurer.

## STATE BOARD OF AUDITORS.

Thomas Hall, Secretary of State.

Carl O. Jorgenson, State Auditor.

Andrew Miller, Attorney General.

## STATE BANKING BOARD.

L. B. Hanna, Governor.

Thomas Hall, Secretary of State.

Andrew Miller, Attorney General.

S. G. Severtson, State Examiner, secretary ex-officio.

## BOARD OF TRUSTEES OF PUBLIC PROPERTY.

L. B. Hanna, Governor.

Thomas Hall, Secretary of State.

Carl O. Jorgenson, State Auditor.

## COMMISSIONERS OF PUBLIC PRINTING.

Thomas Hall, Secretary of State.  
Carl O. Jorgenson, State Auditor.  
Gunder Olson, State Treasurer.  
Taylor O. Thompson, Secretary.

## HOTEL INSPECTOR.

W. B. Woolsey, Grand Forks, term expires first Monday in January, 1915.

## PURE FOOD COMMISSIONER.

E. F. Ladd, Fargo.

## HUMANE OFFICER.

Rev. S. A. Danford, Bismarck.

## U. S. WEATHER BUREAU.

O. W. Roberts, director, Bismarck, N. D.

## OFFICIAL ESTRAY PAPER.

Sentinel, Warwick.

## DISTRICT JUDGES AND OFFICIALS

First District—Charles M. Cooley, Judge, Grand Forks; A. F. Madison, Stenographer, Grand Forks.

Second District—C. W. Buttz, Judge, Devils Lake; Stenographer, (vacancy.)

Third District—Chas. A. Pollock, Judge, Fargo; Wm. C. Green, Stenographer, Fargo.

Fourth District—Frank P. Allen, Judge, Lisbon; Walter L. Divet, Stenographer, Lisbon.

Fifth District—J. A. Coffey, Judge, Courtenay; R. G. McFarland, Stenographer, Jamestown.

Sixth District—W. L. Nuessle, Judge, Washburn; C. C. Wattam, Stenographer, Washburn.

Seventh District—W. J. Kneeshaw, Judge, Pembina; Laura Daubenberg, Stenographer, Grafton.

Eighth District—K. E. Leighton, Judge, Minot; John C. Lowe, Stenographer, Minot.

Ninth District—A. G. Burr, Judge, Rugby; Harold B. Nelson, Stenographer, Rugby.

Tenth District—W. C. Crawford, Judge, Dickinson; R. V. Boulger, Stenographer, Dickinson.

Eleventh District—Frank E. Fisk, Judge, Williston; E. E. Hanyen, Stenographer, Williston.

Twelfth District—Samuel L. Nuchols, Judge, Mandan; L. C. Broderick, Stenographer, Mandan.

## FEDERAL OFFICIALS.

United States Circuit Judge—Walter H. Sanborn, St. Paul, Minn.  
Elmer B. Adams, St. Louis, Mo.; Walter I. Smith, Council Bluffs, Iowa;  
William C. Hook, Leavenworth, Kansas.

United States District Judge—Charles F. Amidon, Fargo, N. D.

United States Marshal—James F. Shea, Fargo, N. D.

United States Attorney—Edward Engerud, Fargo, N. D.

Assistant United States Attorney—T. H. McEnroe, Fargo, N. D.

Clerk United States Circuit and District Courts—J. A. Montgomery, Fargo, N. D.

Deputy Clerks—Miss E. R. Steele, Fargo, N. D.; R. D. Hoskins, Bismarck, N. D.; H. N. Hamilton, Grand Forks, N. D.; D. G. Duell, Devils Lake, N. D.; R. E. Hopkins, Minot, N. D.

Deputy Collectors of Internal Revenue—H. Ellerman, Aberdeen, S. D.; Geo. H. Piercy, Jamestown; G. H. Merrifield, Grand Forks, N. D.

National Bank Examiner—C. H. Auheler, Fargo, N. D.

Collector of Customs—J. LaMoure, Jr., Pembina, N. D.

Deputy U. S. Marshals—G. J. Stout, Chief Deputy, Fargo, N. D.; S. B. Hochman, Fargo, N. D.; Clark W. Haggart, Fargo, N. D.; Jas. A. Shea, Fargo, N. D.

## CONGRESSIONAL.

United States Senators—Porter J. McCumber, Wahpeton, N. D.; term expires March 3, 1917; A. J. Gronna, Lakota, N. D., term expires March 3, 1915.

Representatives in Congress—1st District, H. T. Helgeson, Milton; 2nd District, George M. Young, Valley City; 3rd District, P. D. Norton, Hettinger.

## REFEREES IN BANKRUPTCY.

John L. Lewis, Minot, October 10, 1911.

Emerson H. Smith, Fargo, November 2, 1911.

Theodore Elton, Grand Forks, October 15, 1912.

## TERMS OF SUPREME AND U. S. COURTS.

Supreme Court—April term, first Tuesday in April at Bismarck; October term, first Tuesday in October at Bismarck.

United States Court—At Bismarck, first Tuesday in March; Devils Lake, first Tuesday in July; Fargo, third Tuesday in May; Grand Forks, second Tuesday in November; Minot, second Tuesday in October.

## UNITED STATES LAND OFFICERS

Bismarck—R. N. Stevens, Register; Chas. T. Staley, Receiver.

Devils Lake—John S. McClory, Register; F. W. Cockburn, Receiver.

Dickinson—J. G. Quinlivan, Register; William A. McClure, Receiver.

Minot—Thomas E. Olsgard, Register; Victor E. Corbett, Receiver.

Williston—Thomas B. Murphy, Register; Minor S. Williams, Receiver.

## UNITED STATES COMMISSIONERS, DISTRICT OF NORTH DAKOTA.

Alexander, McKenzie County—Robert Norheim, appointed April 5, 1910.

Ashley, McIntosh County—Hugo P. Remington, appointed September 25, 1910.

Almont, Morton County—G. Harold Anderson, appointed April 17, 1911.

Anamoose, McHenry County—Clinton Cottingham, appointed October 15, 1912.

Amidon, Billings County—T. M. Agnew, appointed January 28, 1913.

Bismarck, Burleigh County—M. J. McKenzie, appointed June 5, 1911.

Beach, Billings County—R. M. Andrews, appointed September 8, 1909.

Beach, Billings County—J. A. Miller, appointed November 21, 1910.

Broncho, Mercer County—L. B. Hardy, appointed December 16, 1912.

Bottineau, Bottineau County—John H. Kirk, appointed February 6, 1913.

Belfield, Stark County—Delbert Hughes, appointed February 11, 1913.

Charlson, McKenzie County—T. E. Charlston, appointed April 30, 1913.

Center, Oliver County—H. H. Kenyon, appointed April 1, 1910.

Center, Oliver County—Victor R. Boerner, appointed July 9, 1910.

Cartwright, McKenzie County—Henry E. Johnson, appointed April 11, 1910.

Crosby, Divide County—W. H. Ware, appointed August 1, 1910.

Dickinson, Stark County—W. R. Everett, appointed February 19, 1912.

Devils Lake, Ramsey County—George Juergens, appointed January 8, 1912.

Driscoll, Burleigh County—Edwin C. Ruble, appointed September 25, 1911.

Dogden, McLean County—R. E. Person, appointed October 23, 1911.

Ellendale, Dickey County—H. H. Perry, appointed November 14, 1910.

Elgin, Morton County—F. G. Boettecher, appointed April 27, 1911.

Emerson, Dunn County—Victor Houghton, appointed January 29, 1913.

Fargo, Cass County—J. A. Montgomery, (Extradition Cases), appointed December 27, 1909.

Fargo, Cass County—A. W. Cupler, appointed April 21, 1911.

Flasher, Morton County—H. H. Thomas, appointed March 2, 1911.

Fort Yates, Morton County—John Edward Reeder, appointed August 3, 1911.

Grand Forks, Grand Forks County—Geo. R. Robbins, appointed April 29, 1911.

Garrison, McLean County—J. F. Casey, appointed October 21, 1910.



Gascoyne, Bowman County—F. W. Pitsor, appointed December 10, 1912.  
Hettinger, Adams County—Jacob Sonderall, appointed April 27, 1911.  
Hettinger, Adams County—E. C. Thomas, appointed June 12, 1911.  
Halliday, Dunn County—Chas. H. Wade, appointed February 3, 1911.  
Hebron, Morton County—H. E. Hagerman, appointed August 29, 1912.  
Jamestown, Stutsman County—Fred G. Kneeland, appointed June 5, 1911.  
Kasmer, Mercer County—Robert M. Stroup, appointed November 13, 1911.  
Krem, Mercer County—C. N. Janzen, appointed April 21, 1911.  
Langdon, Cavalier County—Joseph Cleary, appointed June 5, 1911.  
Lakota, Nelson County—W. C. Fairbanks, appointed December 22, 1911.  
Linton, Emmons County—H. C. Lynn, appointed December 31, 1912.  
Marmarth, Billings County—James H. Cramer, appointed September 13, 1912.  
Manning, Dunn County—J. A. Palmer, appointed October 9, 1909.  
Manning, Dunn County—Wm. P. Owens, appointed February 5, 1912.  
Mott, Hettinger County—V. H. Crane, appointed September 11, 1909.  
McCluskey, Sheridan County—Frank I. Temple, appointed March 20, 1913.  
Minot, Ward County—R. E. Hopkins, appointed September 26, 1910.  
Max, McLean County—H. R. Freitag, appointed January 11, 1912.  
Mohall, Renville County—Percy S. Crewe, appointed September 26, 1911.  
Mandan, Morton County—E. R. Lanterman, appointed January 8, 1912.  
Makoti, Ward County—E. H. Johnson, appointed April 20, 1912.  
Mott, Hettinger County—R. E. McCain, appointed December 20, 1912.  
Napoleon, Logan County—Geo. A. Bryant, appointed May 30, 1910.  
New England, Hettinger County—Charles Simon, appointed March 24, 1910.  
New Leipzig, Morton County—M. C. Rausch, appointed May 16, 1912.  
Pembina, Pembina County—E. W. Conmy, appointed November 14, 1910.  
Plaza, Ward County—O. M. Heath, appointed June 10, 1910.  
Rolla, Rolette County—G. F. Galloway, appointed May 9, 1911.  
Rugby, Pierce County—Seldon Crockett, appointed November 27, 1909.  
Ryder, Ward County—H. C. Miller, appointed May 19, 1910.  
Raleigh, Morton County—John P. Bartel, appointed January 28, 1911.  
Regent, Hettinger County—Frank L. Schnebly, appointed October 12, 1910.  
Richardton, Stark County—E. Mottershead, appointed November 2, 1911.  
Rhame, Bowman County—R. D. Shaw, appointed April 20, 1912.  
Ryder, Ward County—David Larin, appointed January 8, 1913.  
Sykeston, Wells County—A. G. Covel, appointed April 14, 1910.  
Schaefer, McKenzie County—G. L. Gullickson, appointed March 25, 1910.  
Schaefer, McKenzie County—N. F. Snyder, appointed August 12, 1910.  
Stowers, Adams County—H. L. Simmons, appointed March 4, 1912.  
Shields, Morton County—C. J. Klahn, appointed March 23, 1911.  
Stanton, Mercer County—C. F. Schweigert, appointed May 22, 1911.  
Stanley, Mountrail County—R. W. Schulenberg, appointed July 14, 1911.  
Stady, Williams County—F. B. Ellsworth, appointed July 5, 1912.  
Steele, Kidder County—Rees L. Phelps, appointed December 13, 1912.  
Scranton, Bowman County—Pennington, W. A., appointed February 11, 1913.  
Tagus, Ward County—M. C. Egan, appointed January 23, 1911.  
Valley City, Barnes County—C. A. Zabel, appointed October 5, 1911.  
Washburn, McLean County—Jas. T. McCulloch, appointed June 12, 1911.

## ELECTION CALENDAR, 1914

- March 7**—Last day for township clerk to give and post notice of annual township meeting and election.
- March 17**—Annual township meeting and election.
- March 17**—Last day for filing of nominating petitions for municipal officers in commission governed and other municipalities.
- March 26**—First day primary election petitions for state wide primary may be signed.
- March 27**—Last day for city auditor in commission governed city to give notice of city election.
- March 27**—Last day for city council in other than commission governed municipalities to give notice of city election.
- April 1**—First day on which Secretary of State may notify county auditors of what officers to be nominated.
- April 1**—First day on which assessor may commence to make party registration of voters. The assessor is given until May 25 to complete the registration.
- April 6**—Annual election for city officers. Biennial election in commission governed cities.
- April 25**—First day on which candidates for the following offices may present their petitions to the Secretary of State for filing: United States Senator, Member of Congress, state officers and judges of the supreme and district courts.
- May 1**—Last day of period in which the Secretary of State must notify county auditors of what officers to be nominated.
- May 5**—Last day on which candidate for nomination at state wide primary may file data for publication in the publicity pamphlet with the Secretary of State.
- May 15**—First day on which candidates for nomination for county and district offices may file their petitions with the county auditor.
- May 15**—Last day on which Secretary of State may edit and prepare copy for the publicity pamphlet.
- May 24**—First day of first week in which county auditor must commence publication of notice of state wide primary election.
- May 25**—Last day on which assessor may file party registration lists with county auditor.
- May 25**—Last day on which candidates for nomination for the following offices may file their petitions with the Secretary of State: United States Senator, Member of Congress, state officers and judges of the supreme and district courts.
- May 25**—Last day on which candidates for nomination for the following offices may file their petitions with the County Auditor: County and legislative. Petitions must be filed before 4 p. m.
- May 25**—Last day on which county auditor may deliver list of voters with postoffice addresses to the Secretary of State.
- May 26**—First day on which petitions to fill vacancy on the primary election ballot may be filed.
- May 30**—Last day on which Secretary of State may transmit to the county auditors, certified lists of nominations filed in his office.

- May 30—Last day on which petition to fill vacancy on the primary election ballot may be filed.
- June 4—Last day for completion of and delivery to Secretary of State of publicity pamphlet by printer.
- June 4—Last day for mailing out of publicity pamphlet by Secretary of State.
- June 19—Last day for printing of election ballots for state wide primary.
- June 19—Last day for the transmission of tinted ballots to inspectors of elections in the different precincts.
- June 23—Twenty-four hours before opening of polls. Last hour for delivery of ballots, copy of registration lists and other election supplies to inspectors by county auditor.
- June 24—Primary election day. Candidates for the following offices are nominated: United States Senator, Members of Congress, state officers, members of the supreme and district courts, district and county officers, members of the legislative assembly and county commissioners. Polls open at 8 a. m. and remain open continuously until 5 p. m., unless otherwise provided for.
- July 1—First day on which Secretary of State may issue notice to county auditor of all state officers whose terms expire between the first Monday in December and first Monday in January next succeeding general election and specifying what offices are to be filled in the various counties. Period within which such notice may be issued expires on September 1.
- July 2—County canvassing board to meet at county seat at 10 a. m., to canvass primary election returns.
- July 9—Last day on which candidates for nomination at the primary election may file their itemized statements of election expenses with the Secretary of State and the county auditors.
- July 15—County committees of each party meet at the county seat at 2 p. m.
- July 24—Last day on which clerk of primary election precinct may file list of voters with the registration board.
- August 4—Last day on which county auditor may certify abstract of votes to the Secretary of State.
- September 1—State canvassing board convenes in the office of the Secretary of State to canvass primary election returns.
- September 2—State central committees of each party convene at the State Capitol.
- September 29—First day of period within which Secretary of State shall certify to county auditors the names and addresses of the nominees.
- October 4—Last day on which nominee may decline nomination.
- October 4—First day of first week in which county auditor must cause notice of general election to be published.
- October 4—Last day for filing of certificate of nomination with the Secretary of State.
- October 4—Last day of period within which the Secretary of State shall certify to county auditor the names and addresses of the nominees.
- October 9—Last day for filing certificates of nomination with the county auditor.
- October 14—Last day for posting of general election notices by sheriff, coroner, or agent of county auditor in counties where there are no newspapers published.
- October 25—Last day for commencing publication of certificates of nomination by county auditor.



- October 29**—Last day for printing of general election pamphlet.
- October 29**—Last day for transmission by county auditor of tinted general election ballots to the inspectors in the different precincts.
- November 2**—Twenty-four hours before the opening of the polls the last hour for the delivery by county auditor to inspectors of election of general election ballots and other election supplies.
- November 3**—General election day. Following officers to be elected: United States Senator, members of Congress, members of supreme and district courts, state officers, county and district members of legislative assembly and county commissioners. Polls open at 8 a. m. and close at 5 p. m., except where otherwise provided.
- November 6**—Last day for delivery of statement of election returns to county auditor by inspectors of elections.
- November 18**—Last day on which candidates at general election may file itemized statement of election and campaign expenses with county auditor or Secretary of State.
- November 18**—County canvassing board convenes to canvass election returns.
- December 1**—Last day on which county auditor may transmit abstract of votes to the Secretary of State.
- December 8**—State canvassing board convenes in office of the Secretary of State. Governor's election proclamation to be issued within ten days after completion of canvass.

#### 1916

- Presidential Election Year**—State wide election of delegates to national convention takes place on the third Tuesday in March.

## LEGISLATIVE DISTRICTS.

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§ 1. NUMBER OF DISTRICT.] Until otherwise provided by law under the terms of the Constitution, the legislative assembly of the state of North Dakota shall until the end of 1914 consist of fifty senators and one hundred and twelve representatives, and shall thereafter consist of forty-nine senators and one hundred and thirteen representatives, and the senatorial and representative districts of the state shall be formed, and the senators and representatives be apportioned as follows:

(1) The eastern part of the county of Pembina, now constituting the first legislative district, shall be added to and become a part of the second legislative district, and the said second legislative district is hereby renumbered and shall hereafter be and become known as the First Legislative District, and the term of the senator from the district so enlarged and renumbered shall continue for the period for which he was elected as senator of the second legislative district, and the said first legislative district shall in November, 1914, elect his successor for a term of but two years, and the said district consisting of the county of Pembina shall be entitled to one senator and three representatives.

(2) The second district shall consist of the city of Kenmare and that portion of Ward county situated and being in townships 154, 155 and 156 of ranges 85, 86 and 87; township 157 of ranges 84, 85, 86 and 87; township 158 of range 87; townships 159 and 160 of ranges 87, 88 and 89; and township 161 of range 88, and shall be entitled to one senator and one representative.

(3) The third district shall consist of the townships of Perth, Latona, Adams, Silvesta, Cleveland, Norton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Centre, Fertile, City of Park River, village of Edinburg, village of Conway, village of Hopple, village of Pisek, village of Adams, Fairdale, Glenwood, Kinloss, Shepherd, Sauter and Dewey, in the county of Walsh, and be entitled to one senator and two representatives.

(4) The fourth district shall consist of the townships of Forest River, village of Forest River, Walsh Centre, Grafton, city of Grafton, Farmington, Ardock, village of Ardock, Harriston, Oakwood, Martin, Walshville, Pulaski, Acton, city of Minto and St. Andrews, in the county of Walsh, and be entitled to one senator and one representative.

(5) The fifth district shall consist of the townships of Gilby, Johnstown, Strabane, Wheatfield, Hegton, Arvilla, Avon, Northwood, city of Northwood, Lind, Grace, Larimore, city of Larimore, Elm, Grove, Agnes, Inkster, city of Inkster, Elkmount, Plymouth, Niagara, Moraine, Logan Centre and Loretta, in the county of Grand Forks, and be entitled to one senator and one representative.

(6) The sixth district shall consist of the third, fourth, fifth and sixth wards of the city of Grand Forks, as now constituted, and the townships of Faulkner, Harvey, Turtle River, Ferry, Rye, Blooming, Mekinock, Lakeville and Levant, in the county of Grand Forks, and be entitled to one senator and one representative.

(7) The seventh district shall consist of the first, second and seventh wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentrue, Americus, Michigan, Union, Washington, and the first and second wards of the city of Reynolds, in the county of Grand Forks, and be entitled to one senator and one representative.

(8) The eighth district shall consist of the county of Traill, and be entitled to one senator and three representatives.

(9) The ninth district shall consist of the township of Fargo and the city of Fargo, in the county of Cass, and the fractional township number one hundred and thirty-nine, range forty-eight, and be entitled to one senator and three representatives.

(10) The tenth district shall consist of the townships of Noble, Wiser, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, village of Mapleton, Warren, Normania, Bell, Harmony, Durbin, Addison, Davenport, village of Davenport, Casselton, and the city of Casselton, in the county of Cass, and be entitled to one senator and two representatives.

(11) The eleventh district shall consist of the townships of Gunkle, Rush River, Hunter, Arthur, Amenla, Everest,



Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walburg, Watson, Page, Rich, Ayr, Buffalo, the village of Buffalo, Howes, Eldred, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontias, in the county of Cass, and be entitled to one senator and two representatives.

(12) The twelfth district shall consist of the townships of Eagle, Abercrombie, village of Abercrombie, Dwight, Ibsen, Centre, Mooreton, Bradenburg, village of Great Bend, Summit, Fairmount, village of Fairmont, Devillo, Lamars, Waldo, Greendale, and the city of Wahpeton, in the county of Richland, and be entitled to one senator and two representatives.

(13) The thirteenth district shall consist of the county of Sargent, and be entitled to one senator and two representatives.

(14) The fourteenth district shall consist of the county of Ransom, and be entitled to one senator and two representatives.

(15) The fifteenth district shall consist of the townships of Baldwin, Dazey, Laketown, Pierce, Uxbridge, Edna, Rogers, Grand Prairie, Minnie Lake, Anderson, Hobart, Potter, village of Dazey, village of Wimbledon, village of Sanborn, city of Valley City, township one hundred forty-three, range fifty-six; townships one hundred forty-three, range fifty-eight; township one hundred forty-two, range fifty-eight; township one hundred forty-one, range fifty-eight; township one hundred forty-one, range fifty-nine; township one hundred forty-one, range sixty-one; and township one hundred forty, range fifty-eight, in the county of Barnes, and shall be entitled to one senator and one representative.

(16) The sixteenth district shall consist of the counties of Steele and Griggs, and be entitled to one senator and three representatives.

(17) The seventeenth district shall consist of the county of Nelson, and be entitled to one senator and two representatives.

(18) The eighteenth district shall until the end of 1914 consist of the townships of Cypress, Byron, Lynden, Dresden, Langdon, city of Langdon, South Dresden, Grey, Glenila, Huron, Moscow, Waterloo, Elgin, Perry, Billings, Nekoma, Storlie, Banner, Trier, Gordon, Henderson, Nekoma village, Sievert, Sarles village, Bruce and Minto, in the county of Cavalier, and shall be entitled to one senator

and one representative, and thereafter the district shall consist of all of the county of Cavalier, including that portion comprised within and in this act numbered as the fiftieth district, and shall then be entitled to and shall in November, 1914, elect one senator and three representatives.

(19) The nineteenth district shall consist of the county of Rolette, and be entitled to one senator and two representatives.

(20) The twentieth district shall consist of the county of Benson and be entitled to one senator and two representatives.

(21) The twenty-first district shall consist of the county of Ramsey, and be entitled to one senator and three representatives.

(22) The twenty-second district shall consist of the county of Towner, and be entitled to one senator and two representatives.

(23) The twenty-third district shall consist of the county of Stutsman, and shall be entitled to one senator and four representatives.

(24) The twenty-fourth district shall consist of the county of LaMoure, and shall be entitled to one senator and two representatives.

(25) The twenty-fifth district shall consist of the county of Dickey, and be entitled to one senator and two representatives.

(26) The twenty-sixth district shall consist of the counties of Emmons and Kidder, and be entitled to one senator and four representatives.

(27) The twenty-seventh district shall consist of the county of Burleigh, and be entitled to one senator and three representatives.

(28) The twenty-eighth district shall consist of the county of Bottineau, and shall be entitled to one senator and four representatives.

(29) The twenty-ninth district shall consist of the city of Minot and that portion of Ward county situated and being in townships 151, 152 and 153 of ranges 81, 82, 83, 84, 85, 86 and 87; townships 154, 155 and 156 of ranges 82, 83 and 84, and township 157 of ranges 81, 82 and 83, and shall be entitled to one senator and four representatives.

(30) The thirtieth district shall consist of the city of Mandan and all of that portion of the county of Morton situated



and being in township 130 of ranges 85 and 86; township 131 of ranges 84, 85 and 86; township 132, ranges 83, 84, 85 and 86; township 133 of ranges 82, 83, 84, 85 and 86; township 134 of ranges, 79, 80, 81, 82, 83, 84, 85 and 86; townships 135 and 136 of ranges 79, 80, 81, 82, 83, 84 and 85; township 137 of ranges 79, 80, 81, 82 and 83; township 138 of ranges 80, 81, 82 and 83; townships 139 and 140 of ranges 81, 82 and 83, and be entitled to one senator and three representatives.

(31) The thirty-first district shall consist of the county of Stark, and be entitled to one senator and three representatives.

(32) The thirty-second district shall consist of the counties of Eddy and Foster, and be entitled to one senator and two representatives.

(33) The thirty-third district shall consist of the county of Wells, and be entitled to one senator and two representatives.

(34) The thirty-fourth district shall consist of the townships 155, 156, 157 and 158, north of range 75 west, and also townships 155, 156, 157, 158 and 159, north of ranges 76, 77, 78, 79 and 80, in the county of McHenry, and be entitled to one senator and one representative.

(35) The thirty-fifth district shall consist of the county of Sheridan, and be entitled to one senator and one representative.

(36) The thirty-sixth district shall consist of the counties of McIntosh and Logan, and shall be entitled to one senator and three representatives.

(37) The thirty-seventh district shall consist of the townships of Walcott, Colfax, Barrie, Helendale, Sheyenne, Viking, Garburg, Freeman, West End, Homestead, Grafton, Antelope, Danton, Garfield, Dexter, Wyndmere, village of Wyndmere, Belford, Liberty, Brightwood, town of Hankinson, Elma, Durr, city of Lidgerwood, Moran and Grant, in the county of Richland, and be entitled to one senator and two representatives.

(38) The thirty-eighth district shall consist of the townships of Weimer, Nollmeir, Alta, Oriska, Springvale, Cuba, Green, Herman, Mansfield, Meadowlake, Svea, Scandia, Norman, Binghampton, Raritan, Thordenskjold, Oakville, Spring Creek, Rosebud, Greenland, village of Litchville, village of Nome, township one hundred forty, range sixty-one; township one hundred thirty-nine, range fifty-eight; and

township one hundred thirty-eight, range fifty-eight, in the county of Barnes, and be entitled to one senator and one representative.

(39) The thirty-ninth district shall consist of the counties of Billings and Bowman (including the counties of Slope and Golden Valley if created from the territory of Billings county), and shall be entitled to one senator and three representatives.

(40) The fortieth district shall consist of the counties of Burke and Divide, and be entitled to one senator and three representatives.

(41) The forty-first district shall consist of the counties of Williams and McKenzie, and shall be entitled to one senator and five representatives.

(42) The forty-second district shall consist of the county of Pierce, and shall be entitled to one senator and two representatives.

(43) The forty-third district shall consist of the county of Renville, and shall be entitled to one senator and one representative.

(44) The forty-fourth district shall consist of the county of Mountrail, and shall be entitled to one senator and two representatives.

(45) The forty-fifth district shall consist of townships 151, 152, 153 and 154, north of range 75, 76, 78, 79 and 80 in the county of McHenry, and shall be entitled to one senator and one representative.

(46) The forty-sixth district shall consist of the counties of McLean and Stevenson (if created from the territory of McLean county), and shall be entitled to one senator and three representatives.

(47) The forty-seventh district shall consist of that portion of Morton county situated and being in townships 130, 131 and 132 of ranges 87, 88, 89 and 90; townships 133 and 134 of ranges 87, 88, 89 and 90; townships 135 and 136 of ranges 86, 87, 88, 89 and 90; townships 137, 138, 139 and 140 of ranges 84, 85, 86, 87, 88, 89 and 90, and shall be entitled to one senator and two representatives.

(48) The forty-eighth district shall consist of the counties of Mercer, Oliver and Dunn, and be entitled to one senator and three representatives.



(49) The forty-ninth district shall consist of the counties of Adams and Hettinger, and be entitled to one senator and two representatives.

(50) The fiftieth district, consisting of the townships of Hope, Freemont, Olga, Loam, Hay, Harvey, Manilla, Easby, Alma, East Alma, Montrose, Oxford, Mount Carmel, village of Milton, and Osnabrock village, in the county of Cavalier, is hereby re-numbered and shall hereafter be known as the Fiftieth District, and shall until the end of 1914 be entitled to one senator and one representative, and the term of the senator elected for the district so re-numbered shall continue until the end of 1914, and with the expiration of 1914 the said Fiftieth District shall cease to exist and the territory comprised in this district shall be added to and become a part of the eighteenth legislative district, which will then include all of the county of Cavalier. [1911, ch. 256.]



## CONGRESSIONAL DISTRICTS.

(Chapter 100, 1911 Session Laws.)

§ 1. The State of North Dakota is hereby divided into three Congressional districts, each of which is entitled to elect one representative to the Congress of the United States.

§ 2. FIRST DISTRICT DEFINED.] The counties of Pembina, Cavalier, Towner, Ramsey, Walsh, Nelson, Grand Forks, Steele, Traill, Cass, Ransom, Sargent and Richland shall constitute the First Congressional district.

§ 3. SECOND DISTRICT DEFINED.] The counties of Bottineau, Rolette, McHenry, Pierce, Benson, Sheridan, Wells, Eddy, Foster, Griggs, Stutsman, Barnes, Kidder, Burleigh, Emmons, Logan, McIntosh, LaMoure and Dickey shall constitute the Second Congressional district.

§ 4. THIRD DISTRICT DEFINED.] The counties of Divide, Burke, Renville, Ward, Mountrail, Williams, McKenzie, McLean, Dunn, Mercer, Oliver, Billings, Stark, Morton, Hettinger, Bowman and Adams shall constitute the Third Congressional district.

## JUDICIAL DISTRICTS.

Jud. Dist.	County	Terms of the District Court
10	Adams .....	1st Tues. April, 3rd Tues. Oct.
5	Barnes .....	1st Mon. Jan., 1st Mon. June.
2	Benson .....	1st Mon. June, 2nd Mon. Dec.
10	Billings .....	1st Tues. Jan., 1st Tues. June.
9	Bottineau .....	2d M. Feb., 3d M. Sept. Nov. 4th M. Apr. June.
10	Bowman .....	3rd Tues. June, 2nd Tues. Nov.
8	Burke .....	4th Mon. Oct., 1st Mon. July, 2nd Mon. Jan.
6	Burleigh .....	3d Tu. Feb., 2d Tus. May Dec., 1st Tu. Sept.
3	Cass .....	April 23, Sept. 3, Nov. 5, 1913, Jan. 7, 1914.
7	Cavalier .....	1st Tues. Dec. and March 2nd Tues. June, Sept.
4	Dickey .....	1st Tues. March and Oct.
8	Divide .....	4th Mon. Sept. 2nd Mon. June, 3rd Mon. Jan.
10	Dunn .....	As Court shall direct.
2	Eddy .....	3rd Mon. May, 2nd Mon. Oct.
6	Emmons .....	1st Tues. Feb. and Oct.
5	Foster .....	1st Mon. May, 2nd Mon. Oct.
10	Golden Valley....	3rd Tues. Jan., 2nd Tues. July.
1	Grand Forks....	1st Tues. each month except Aug. and Sept.
5	Griggs .....	2nd Mon. May, 2nd Mon. Nov.
10	Hettinger .....	2nd Tues. Feb. 1st Tues. Oct.
6	Kidder .....	2nd Tues. Jan., 3rd Tues. June.
5	LaMoure .....	1st Mon. Feb., 4th Mon. Sept.
6	Logan .....	1st Tues. April, 4th Tues. Nov.
12	Mercer .....	2nd Mon. March, 3rd Mon. Nov.
12	Morton .....	4 Mon. Mar., 3 Mon. June, Sept. 1st Mon. Dec.
11	Mountrail .....	3rd Mon. July, Nov. and Jan.
9	McHenry .....	2 M. Mar., May, 3 M. July, Dec., 1 M. Oct.
4	McIntosh .....	1st Tues. April and Nov.
11	McKenzie .....	2nd Mon. June, 3rd Mon. Oct.
6	McLean .....	2nd Wed. June and Nov.
1	Nelson .....	1st Mon. after July 4, 1st Mon. after Jan. 1st.
12	Oliver .....	1st Mon. June, 3rd Mon. Oct.
7	Pembina .....	1st Tues. Jan., April, June and Oct.
9	Pierce .....	3 M., Jan., 1 M. Apr., June, Sept., 3 M. Oct.
2	Ramsey .....	1st Mon. March, 2nd Mon. Nov.
4	Ransom .....	1st Tues. May and Dec.
8	Renville .....	2nd Mon. Oct., 4th Mon. June and Jan.
4	Richland .....	1st Tues. Jan. and June.
2	Rolette .....	3rd Mon. June, 1st Mon. Jan.
4	Sargent .....	1st Tues. Feb. and Sept.
10	Stark .....	3 Tu. May, 1 Tu. Sept., 1 Tu. Dec., 1 Tu. Mar.
6	Sheridan .....	2nd Tues. March, 3rd Tues. Oct.
3	Steele .....	3rd Tues. June and Oct.
5	Stutsman .....	3rd Mon. June, 2nd Mon. Dec.
3	Trall .....	2nd Tues. Feb., 1st Tues. June.
2	Towner .....	3rd Mon. March, 4th Mon. Nov.
7	Walsh .....	4 Tues. Jan. and June, 3 Tues. Nov., March.
8	Ward .....	2nd Mon. Nov., 3rd Mon. July, 1st Mon. Feb.
5	Wells .....	3rd Mon. July, 3rd Mon. Jan.
11	Williams .....	4th Mon. June, 1st Mon. Oct., 2nd Mon. Dec.



## CONSTITUTION OF THE UNITED STATES OF AMERICA.

[NOTE—The constitution was adopted September 17, 1787, by the unanimous consent of the states present in the convention appointed in pursuance of the resolution of the congress of the confederation, of February 21, 1787, and was ratified by the conventions of the several states, as follows, viz.: By convention of Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 3, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 26, 1788; New York, July 26, 1788; North Carolina, November 21, 1789; Rhode Island, May 20, 1790.

The first ten of the amendments were proposed at the first session of the first congress of the United States, September 25, 1789, and were finally ratified by the constitutional number of states, December 15, 1791.

The eleventh amendment was proposed at the first session of the third congress, March 5, 1794, and was declared in a message from the president of the United States to both houses of congress, dated January 8, 1798, to have been adopted by the constitutional number of states.

The twelfth amendment was proposed at the first session of the eighth congress, December 12, 1803, and was adopted by the constitutional number of states in 1804, according to public notice thereof by the secretary of state, dated September 25, 1804.

The thirteenth amendment was proposed at the second session of the thirty-eighth congress, February 1, 1865, and was adopted by the constitutional number of states in 1865, according to a public notice thereof by the secretary of state, dated December 18, 1865.

The fourteenth amendment took effect July 28, 1868.

The fifteenth amendment took effect March 30, 1870.

The sixteenth and seventeenth amendments took effect in 1913.]

We, the people of the United States in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

### ARTICLE I.—THE CONGRESS.

§ 1. All legislative powers herein granted, shall be vested in a Congress of the United States, which shall consist of a senate and house of representatives.

§ 2. The house of representatives shall be composed of members chosen every second year by the people of the several states, and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven

years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

Representatives \* (and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective members, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.) The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers; and shall have the sole power of impeachment.

§ 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation, or otherwise during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of

\* The clause included in brackets is amended by the fourteenth amendment.

the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice president, or when he shall exercise the office of the president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the president of the United States is tried the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

§ 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

§ 5. Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house during the session of congress, shall with-



out the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

§ 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

§ 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution or vote to which the concurrence of the senate and the house of representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States, and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.



§ 8. The congress shall have the power:

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense, and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.

To borrow money on the credit of the United States.

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

To establish a uniform rule for naturalization and uniform laws on the subject of bankruptcies throughout the United States.

To coin money, regulate the value thereof, and of foreign coin, and fix the standards of weights and measures.

To provide for the punishment of counterfeiting the securities and current coin of the United States.

To establish post offices and post roads.

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.

To constitute tribunals inferior to the supreme court.

To define and punish piracies and felonies committed on the high seas and offenses against the law of nations.

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.

To provide and maintain a navy.

To make rules for the government and regulation of the land and naval forces.

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions.

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states, respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by congress.

To exercise exclusive legislation, in all cases whatsoever, over such district, (not exceeding ten miles square), as may by cession of particular states, and the acceptance of congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all

other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

§ 9. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended unless when in cases of rebellion or invasion the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation or other direct tax shall be laid unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any state.

No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to, or from, one state, be obliged to enter, clear or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them, shall, without the consent of the congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince or foreign state.

§ 10. No state shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall without the consent of the congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws, and the net produce of all duties and imposts laid by any state on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress.

No state shall, without the consent of congress, lay any duty on tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another

state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.—THE EXECUTIVE.

§ 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected, as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress, but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

No person except a natural born citizen or a citizen of the United States at the time of the adoption of this constitution shall be eligible to the office of president neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of said office, the same shall devolve on the vice president; and the congress may, by law, provide for the case of removal, death, resignation or inability, both of the president and vice president, declaring what officer shall then act as president and such officer shall act accordingly until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enters on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will to the best of my ability, preserve, protect, and defend the constitution of the United States."

§ 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia



of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

§ 3. He shall from time to time give to the congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

§ 4. The president, vice president and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery or other high crimes and misdemeanors.

### ARTICLE III.—THE JUDICIARY.

§ 1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.



§ 2. The judicial power shall extend to all cases, in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all other cases before mentioned the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crime shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

§ 3. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained.

#### ARTICLE IV.—THE STATES AND TERRITORIES.

§ 1. Full faith and credit shall be given in each state, to the public acts, records and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

§ 2. The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony or other crime, who shall flee from justice and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

§ 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state; nor any state to be formed by the junction of two or more states, or parts of states, without the consent of the legislature of the states concerned as well as of the congress.

The congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed to prejudice any claims of the United States, or of any particular state.

§ 4. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive, (when the legislature cannot be convened) against domestic violence.

#### ARTICLE V.—AMENDMENTS.

The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which in either case, shall be valid, to all intents and purposes, as part of this constitution, when ratified by the legislature of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

#### ARTICLE VI.—MISCELLANEOUS BUSINESS.

All debts contracted and engagements entered into before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made,

or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

#### ARTICLE VII.—RATIFICATION.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the independence of the United States of America, the twelfth.

#### AMENDMENTS TO THE CONSTITUTION.

##### ARTICLE I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

##### ARTICLE II.

A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

##### ARTICLE III.

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner, nor in time of war but in a manner prescribed by law.

##### ARTICLE IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches



and seizures, shall not be violated, and no warrants shall issue, but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.

#### ARTICLE V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of a grand jury, except in cases arising in the land or naval forces or in the militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

#### ARTICLE VI.

In all criminal prosecutions, the accused shall enjoy the wise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces or in the militia, when in actual service in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.

#### ARTICLE VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

#### ARTICLE VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### ARTICLE IX.

The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the people.



## ARTICLE X.

The powers not delegated to the United States by the constitution nor prohibited by it to the states, are reserved to the states respectively, or to the people.

## ARTICLE XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

## ARTICLE XII.

The electors shall meet in their respective states, and vote by ballot for president and vice president, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president; and in distinct ballots the person voted for as vice president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other constitutional disability of the president. The person having the greatest number of votes as vice president shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list, the senate shall choose the vice president. A quorum for the purpose shall

consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of president shall be eligible to that of vice president of the United States.

### ARTICLE XIII.

§ 1. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

§ 2. Congress shall have power to enforce this article by appropriate legislation.

### ARTICLE XIV.

§ 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, or deny to any person within its jurisdiction the equal protection of the laws.

§ 2. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

§ 3. No person shall be a senator or representative in congress or elector of president and vice president, or hold any office civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection, or re-

bellion against the same, or given aid or comfort to the enemies thereof. But congress may by vote of two-thirds of each house, remove such disability.

§ 4. The validity of the public debt in the United States, authorized by law, including debts incurred for payment of pensions and bounties for services, in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

§ 5. The congress shall have power to enforce by appropriate legislation, the provisions of this article.

#### ARTICLE XV.

§ 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state, on account of race, color, or previous condition of servitude.

§ 2. The congress shall have power to enforce this article by appropriate legislation.

#### ARTICLE XVI.

“The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.”

#### ARTICLE XVII.

“The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

“When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

“This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.”



## UNITED STATES STATUTES RELATING TO CITIZENSHIP.

[Revised United States Statutes, p. 351.]

§ 1992. NATIVE-BORN PERSONS.] All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.

§ 1993. CHILDREN BORN ABROAD.] All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.

§ 1994. MARRIED WOMEN.] Any woman who is now or who may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.

§ 1995. PERSONS BORN IN FORMER TERRITORY OF OREGON.] All persons born in the district of country formerly known as the Territory of Oregon, and subject to the jurisdiction of the United States on the eighteenth day of May, 1872, are citizens in the same manner as if born elsewhere in the United States.

§ 1996. ARMY DESERTERS FORFEIT RIGHT OF CITIZENSHIP.] All persons who deserted the military or naval service of the United States and did not return thereto or report themselves to a provost marshal within sixty days after the issuance of the proclamation of the President, dated the eleventh day of March, 1865, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their rights to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizenship thereof.

§ 1997. CERTAIN SOLDIERS AND SAILORS EXCEPTED.] No soldier or sailor, however, who faithfully served according to his enlistment until the nineteenth day of April, 1865, and who without proper authority or leave first obtained, quit his command or refused to serve after that date, shall be a deserter from the army or navy; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred under the preceding section,



by the loss of citizenship and of the right to hold office in consequence of his desertion.

§ 1998. DEFINING AN ARMY DESERTER.] Every person who hereafter deserts the military or naval service of the United States, or who, being duly enrolled, departs the jurisdiction of the district in which he is enrolled, or goes beyond the limits of the United States, with intent to avoid any draft into the military or naval service lawfully ordered, shall be liable to all the penalties and forfeitures of Section 1996.

§ 1999. RIGHT OF EXPATRIATION DECLARED.] Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness; and whereas, in the recognition of this principle, this government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendents, are subjects of foreign states, owing allegiance to the government thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disallowed: therefore, any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation is declared inconsistent with the fundamental principles of the republic.

§ 2000. NATURALIZED CITIZENS PROTECTED IN FOREIGN STATES.] All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this government the same protection of persons and property which is accorded to native-born citizens.

§ 2003. INTERFERENCE BY ARMY OR NAVAL OFFICERS.] No officer of the army or navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any state, or in any manner interfere with the freedom of any election in any state, or with the exercise of the free right of suffrage in any state.

§ 2004. RACE, COLOR, OR PREVIOUS CONDITION NOT TO AFFECT THE RIGHT TO VOTE.] All citizens of the United States, who are otherwise qualified by law to vote at any election by the people in any state, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections without distinction of race, color, or previous condition of servitude, any constitution, law, custom, usage, or regulation of any state or territory, or by or under its authority, to the contrary notwithstanding.

NATURALIZATION LAWS.

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*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:* That the designation of the Bureau of Immigration in the Department of Commerce and Labor is hereby changed to the "Bureau of Immigration and Naturalization," which said Bureau under the direction and control of the Secretary of Commerce and Labor, in addition to the duties now provided by law, shall have charge of all matters concerning the naturalization of aliens. That it shall be the duty of said Bureau to provide for use at the various immigration stations throughout the United States, books of record, wherein the commissioners of immigration shall cause a registry to be made in the case of each alien arriving in the United States from and after the passage of this Act of the name, age, occupation, personal description (including height, complexion, color of hair and eyes,) the place of birth, the last residence, the intended place of residence in the United States, and the date of arrival of said alien, and, if entered through a port, the name of the vessel in which he comes. And it shall be the duty of said commissioners of immigration to cause to be granted to such alien a certificate of such registry, with the particulars thereof.

§ 2. That the Secretary of Commerce and Labor shall provide the said Bureau with such additional furnished offices within the city of Washington, such books of record and facilities, and such additional assistants, clerks, stenographers, typewriters, and other employees as may be necessary for the proper discharge of the duties imposed by this act upon such Bureau, fixing the compensation of such additional employees until July 1, 1907, within the appropriations made for that purpose.

§ 3. That exclusive jurisdiction to naturalize aliens as citizens of the United States is hereby conferred upon the following specified courts:

United States circuit and district courts now existing, or which may hereafter be established by Congress in any state, United States district courts for the territories of Arizona, New Mexico, Oklahoma, Hawaii, and Alaska, the Supreme Court of the District of Columbia, and the United States courts for the Indian Territory; also all courts of record in any state or territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction



in actions at law or equity, or law and equity, in which the amount in controversy is unlimited.

That the naturalization jurisdiction of all courts herein specified, state, territory, and federal, shall extend only to aliens resident within the respective judicial districts of such courts.

The courts herein specified shall, upon the requisition of the clerks of such courts, be furnished from time to time by the Bureau of Immigration and Naturalization with such blank forms as may be required in the naturalization of aliens, and all certificates of naturalization shall be consecutively numbered and printed on safety paper furnished by said Bureau.

§ 4. That an alien may be admitted to become a citizen of the United States in the following manner and not otherwise:

First: He shall declare on oath before the clerk of any court authorized by this act to naturalize aliens, or his authorized deputy, in the district in which such alien resides, two years at least prior to his admission, and after he has reached the age of eighteen years, that it is *bona fide* his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state or sovereignty, and particularly, by name, to the prince, potentate, state, or sovereignty of which the alien may be at the time a citizen or subject. And such declaration shall set forth the name, age, occupation, personal description, place of birth, last foreign residence and allegiance, the date of arrival, the name of the vessel, if any, in which he came to the United States, and the present place of residence in the United States of said alien; *provided, however*, that no alien who, in conformity with the law in force at the date of his declaration, has declared his intention to become a citizen of the United States shall be required to renew such declaration; *provided further*, that any person belonging to the class of persons authorized and qualified under existing law to become a citizen of the United States who has resided constantly in the United States during a period of five years not preceding May 1, 1910, who, because of misinformation in regard to his citizenship or the requirements of the law governing the naturalization of citizens has labored and acted under the impression that he was or could become a citizen of the United States and has in good faith exercised the rights or duties of a citizen or intended citizen of the United States because of such wrongful information and belief may, upon making a showing of such facts satisfactory to a court

having jurisdiction to issue papers of naturalization to an alien, and the court in its judgment believes that such person has been for a period of more than five years entitled upon proper proceedings to be naturalized as a citizen of the United States, receive from the said court a final certificate of naturalization, and said court may issue such certificate without requiring proof of former declaration by or on the part of such person of their intention to become a citizen of the United States, but such applicant for naturalization shall comply in all other respects with the law relative to the issuance of final papers of naturalization to aliens.

Second. Not less than two years nor more than seven years after he has made such declaration of intention he shall make and file, in duplicate, a petition in writing, signed by the applicant in his own handwriting and duly verified, in which petition such applicant shall state his full name, his place of residence (by street and number, if possible), his occupation, and if possible, the date and place of his birth; the place from which he emigrated, and the date and place of his arrival in the United States, and, if he entered through a port, the name of the vessel on which he arrived; the time when and the place and name of the court where he declared his intention to become a citizen of the United States; if he is married he shall state the name of his wife and, if possible, the country of her nativity and her place of residence at the time of filing his petition; and if he has children, the name, date, and place of birth and place of residence of each child living at the time of the filing of his petition; *provided*, that if he has filed his declaration before the passage of this act he shall not be required to sign the petition in his own handwriting.

The petition shall set forth that he is not a disbeliever in or opposed to organized government, or a member of or affiliated with any organization or body of persons teaching disbelief in or opposed to organized government, a polygamist or believer in the practice of polygamy, and that it is his intention to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly by name to the prince, potentate, state, or sovereignty of which he at the time of filing of his petition may be a citizen or subject, and that it is his intention to reside permanently within the United States, and whether or not he has been denied admission as a citizen of the United States, and, if denied, the ground or grounds of such denial, the court or courts in which such decision was rendered, and that the cause for such denial has since



been cured or removed, and every fact material to his naturalization and required to be proved upon the final hearing of his application.

The petition shall also be verified by the affidavit of at least two creditable witnesses, who are citizens of the United States, and who shall state in their affidavits that they have personally known the applicant to be a resident of the United States for a period of at least five years continuously, and of the state, territory, or district in which the application is made for a period of at least one year immediately preceding the date of the filing of his petition, and that they each have personal knowledge that the petitioner is a person of good moral character, and that he is in every way qualified, in their opinion, to be admitted as a citizen of the United States.

At the time of filing his petition there shall be filed with the clerk of the court a certificate from the Department of Commerce and Labor, if the petitioner arrives in the United States after the passage of this act, stating the date, place, and manner of his arrival in the United States, and the declaration of intention of such petitioner, which certificate and declaration shall be attached to and made a part of said petition.

Third. He shall, before he is admitted to citizenship, declare on oath in open court that he will support the Constitution of the United States, and that he absolutely and entirely renounces and abjures all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly by name to the prince, potentate, state, or sovereignty of which he was before a citizen or subject; that he will support and defend the Constitution and laws of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same.

Fourth. It shall be made to appear to the satisfaction of the court admitting any alien to citizenship that immediately preceding the date of his application he has resided continuously within the United States five years at least, and within the state or territory where such court is at the time held one year at least, and that during that time he has behaved as a man of good moral character attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same. In addition to the oath of the applicant, the testimony of at least two witnesses, citizens of the United States, as to the facts, of residence, moral character, and attachment to the principles of the Constitution shall be required and the name, place of residence, and occupation of each witness shall be set forth in the record.

Fifth. In case the alien applying to be admitted to citizenship has borne any hereditary title, or has been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

Sixth. When any alien who has declared his intention to become a citizen of the United States dies before he is actually naturalized the widow and minor children of such alien may, by complying with the other provisions of this act, be naturalized without making any declaration of intention.

§ 5. That the clerk of the court shall, immediately after filing the petition, give notice thereof by posting in a public and conspicuous place in his office, or in the building in which his office is situated, under an appropriate heading, the name, nativity, and residence of the alien, the date and place of his arrival in the United States, and the date, as nearly as may be, for the final hearing of his petition, and the names of the witnesses whom the applicant expects to summon in his behalf; and the clerk shall, if the applicant requests it, issue a subpoena for the witnesses so named by the said applicant to appear upon the day set for the final hearing, but in case such witnesses can not be produced upon the final hearing other witnesses may be summoned.

§ 6. That petitions for naturalization may be made and filed during term time or vacation of the court and shall be docketed the same day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court, and in no case shall final action be had upon a petition until at least ninety days have elapsed after filing and posting the notice of such petition; *provided* that no person shall be naturalized nor shall any certificate of naturalization be issued by any court within thirty days preceding the holding of any general election within its territorial jurisdiction. It shall be lawful, at the time and as a part of the naturalization of any alien, for the court, in its discretion, upon the petition of such alien, to make a decree changing the name of said alien, and his certificate of naturalization shall be issued to him in accordance therewith.

§ 7. That no person who disbelieves in or who is opposed to organized government, or who is a member of or affiliated with any organization entertaining and teaching



such disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States, or of any other organized government, because of his or their official character, or who is a polygamist, shall naturalized or be made a citizen of the United States.

§ 8. That no alien shall hereafter be naturalized or admitted as a citizen of the United States who can not speak the English language; *provided*, that this requirement shall not apply to aliens who are physically unable to comply therewith, if they are otherwise qualified to become citizens of the United States; *and provided further*, that the requirements of this section shall not apply to any alien who has prior to the passage of this act declared his intention to become a citizen of the United States in conformity with the law in force at the date of making such declaration; *provided further*, that the requirements of Section 8 shall not apply to aliens who shall hereafter declare their intention to become citizens and who shall make homestead entries upon the public lands of the United States and comply in all respects with the laws providing for homestead entries on such lands.

§ 9. That every final hearing upon such petition shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the applicant and witnesses shall be examined under oath before the court and in the presence of the court.

§ 10. That in case the petitioner has not resided in the state, territory, or district for a period of five years continuously and immediately preceding the filing of his petition he may establish by two witnesses, both in his petition and at the hearing, the time of his residence within the state, provided that it has been for more than one year, and the remaining portion of his five years' residence within the United States required by law to be established may be proved by the depositions of two or more witnesses who are citizens of the United States, upon notice to the Bureau of Immigration and Naturalization and the United States attorney for the district in which said witnesses may reside.

§ 11. That the United States shall have the right to appear before any court or courts exercising jurisdiction

in naturalization proceedings for the purpose of cross-examining the petitioner and the witnesses produced in support of his petition concerning any matter touching or in any way affecting his right to admission to citizenship, and shall have the right to call witnesses, produce evidence, and be heard in opposition to the granting of any petition in naturalization proceedings.

§ 12. That it is hereby made the duty of the clerk of each and every court exercising jurisdiction in naturalization matters under the provisions of this act to keep and file a duplicate of each declaration of intention made before him and to send to the Bureau of Immigration and Naturalization at Washington, within thirty days after the issuance of a certificate of citizenship, a duplicate of such certificate, and to make and keep on file in his office a stub for each certificate so issued by him, whereon shall be entered a memorandum of all the essential facts set forth in such certificate. It shall also be the duty of the clerk of each of said courts to report to the said bureau, within thirty days after the final hearing and decision of the court, the name of each and every alien who shall be denied naturalization, and to furnish to said bureau duplicates of all petitions within thirty days after the filing of the same, and certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturalization of aliens as may be required from time to time by the said bureau.

In case any such clerk or officer acting under his direction shall refuse or neglect to comply with any of the foregoing provisions he shall forfeit and pay to the United States the sum of twenty-five dollars in each and every case in which such violation or omission occurs, and the amount of such forfeiture may be recovered by the United States in an action of debt against such clerk.

Clerks of court having and exercising jurisdiction in naturalization matters shall be responsible for all blank certificates of citizenship received by them from time to time from the Bureau of Immigration and Naturalization, and shall account for the same to the said bureau whenever required so to do by such bureau. No certificate of citizenship received by any such clerk which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificate shall be returned to the said bureau; and in case any such clerk shall fail to return or properly account for any certificate furnished by the said bureau, as herein provided, he shall be liable to the United States in the sum of fifty dollars, to be recovered in an action of debt, for each



and every certificate not properly accounted for or returned.

§ 13. That the clerk of each and every court exercising jurisdiction in naturalization cases shall charge, collect, and account for the following fees in each proceeding:

For receiving and filing a declaration of intention and issuing a duplicate thereof, one dollar.

For making, filing, and docketing the petition of an alien for admission as a citizen of the United States and for the final hearing thereon, two dollars; and for entering the final order and the issuance of the certificate of citizenship thereunder, if granted, two dollars.

The clerk of any court collecting such fees is hereby authorized to retain one-half of the fees collected by him in such naturalization proceeding; the remaining one-half of the naturalization fees in each case collected by such clerks, respectively, shall be accounted for in their quarterly accounts, which they are hereby required to render the Bureau of Immigration and Naturalization, and paid over to such bureau within thirty days from the close of each quarter in each and every fiscal year, and the moneys so received shall be paid over to the disbursing clerk of the Department of Commerce and Labor, who shall thereupon deposit them in the treasury of the United States, rendering an account therefor quarterly to the auditor for the State and other departments, and the said disbursing clerk shall be held responsible under his bond for said fees so received.

In addition to the fees herein required, the petitioner shall, upon the filing of his petition to become a citizen of the United States, deposit with and pay to the clerk of the court a sum of money sufficient to cover the expenses of subpœnaing and paying the legal fees of any witnesses for whom he may request a subpœna, and upon the final discharge of such witnesses they shall receive, if they demand the same from the clerk, the customary and usual witness fees from the moneys which the petitioner shall have paid to such clerk for such purpose, and the residue, if any, shall be returned by the clerk to the petitioner; *provided*, that the clerks of courts exercising jurisdiction in naturalization proceedings shall be permitted to retain one-half of the fees in any fiscal year up to the sum of three thousand dollars, and that all fees received by such clerks in naturalization proceedings in excess of such amount shall be accounted for and paid over to said bureau as in case of other fees to which the United States may be entitled under the provisions of this act. The clerks of the various courts exercising jurisdiction in naturalization proceedings shall

pay all additional clerical force that may be required in performing the duties imposed by this act upon the clerks of courts from fees received by such clerks in naturalization proceedings.

And in case the clerk of any court exercising naturalization jurisdiction collects fees in excess of the sum of six thousand dollars in any fiscal year the Secretary of Commerce and Labor may allow salaries, for naturalization purposes only, to pay for clerical assistance, to be selected and employed by that clerk, additional to the clerical force, for which clerks of courts are required by this section to pay from fees received by such clerks in naturalization proceedings, if in the opinion of said secretary the naturalization business of such clerk warrants further additional assistance; *provided*, that in no event shall the whole amount allowed the clerk of a court and his assistants exceed the one-half of the gross receipts of the office of said clerk from naturalization fees during such fiscal year; *provided further*, that when, at the close of any fiscal year; the business of such clerk of court indicates in the opinion of the Secretary of Commerce and Labor that the naturalization fees for the succeeding fiscal year will exceed six thousand dollars the Secretary of Commerce and Labor may authorize the continuance of the allowance of salaries for the additional clerical assistance herein provided for and employed on the last day of the fiscal year until such time as the remittances indicate in the opinion of said secretary that the fees for the then current fiscal year will not be sufficient to allow the additional clerical assistance authorized by this act.

That payment for the additional clerical assistance herein authorized shall be in the manner and under such regulations as the Secretary of Commerce and Labor may prescribe.

§ 14. That the declarations of intention and the petitions for naturalization shall be bound in chronological order in separate volumes, indexed, consecutively numbered, and made part of the records of the court. Each certificate of naturalization issued shall bear upon its face, in a place prepared therefor, the volume number and page number of the petition whereon such certificate was issued, and the volume number and page number of the stub of such certificate.

§ 15. That it shall be the duty of the United States district attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any court having jurisdiction to naturalize aliens in the



judicial district in which the naturalized citizen may reside at the time of bringing the suit, for the purpose of setting aside and canceling the certificate of citizenship on the ground of fraud or on the ground that such certificate of citizenship was illegally procured. In any such proceedings the party holding the certificate of citizenship alleged to have been fraudulently or illegally procured shall have sixty days' personal notice in which to make answer to the petition of the United States; and if the holder of such certificate be absent from the United States or from the district in which he last had his residence, such notice shall be given by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the State or the place where such suit is brought.

If any alien who shall have secured a certificate of citizenship under the provisions of this act shall, within five years after the issuance of such certificate, return to the country of his nativity, or go to any other foreign country, and take permanent residence therein, it shall be considered *prima facie* evidence of a lack of intention on the part of such alien to become a permanent citizen of the United States at the time of filing his application for citizenship, and, in the absence of countervailing evidence, it shall be sufficient in the proper proceeding to authorize the cancellation of his certificate of citizenship as fraudulent, and the diplomatic and consular officers of the United States in foreign countries shall from time to time, through the Department of State, furnish the Department of Justice with the names of those within their respective jurisdictions who have such certificates of citizenship and who have taken permanent residence in the country of their nativity, or in any other foreign country, and such statements, duly certified, shall be admissible in evidence in all courts in proceedings to cancel certificates of citizenship.

Whenever any certificate of citizenship shall be set aside or canceled, as herein provided, the court in which such judgment or decree is rendered shall make an order canceling such certificate of citizenship and shall send a certified copy of such order to the Bureau of Immigration and Naturalization; and in case such certificate was not originally issued by the court making such order it shall direct the clerk of the court to transmit a copy of such order and judgment to the court out of which such certificate of citizenship shall have been originally issued. And it shall thereupon be the duty of the clerk of the court receiving such certified copy of the order and judgment of the court to enter the same of record and to cancel such original certificate of citizenship upon the records and to notify the



Bureau of Immigration and Naturalization of such cancellation.

The provisions of this section shall apply not only to certificates of citizenship issued under the provisions of this act, but to all certificates of citizenship which may have been issued heretofore by any court exercising jurisdiction in naturalization proceedings under prior laws.

§ 16. That every person who falsely makes, forges, counterfeits, or causes or procures to be falsely made, forged, or counterfeited, or knowingly aids or assists in falsely making, forging, or counterfeiting any certificate of citizenship, with intent to use the same, or with the intent that the same may be used by some other person or persons, shall be guilty of felony, and a person convicted of such offense shall be punished by imprisonment of not more than ten years, or by a fine of not more than ten thousand dollars, or by both such fine and imprisonment.

§ 17. That every person who engraves or causes or procures to be engraved, or assists in engraving, any plate in the likeness of any plate designed for the printing of a certificate of citizenship, or who sells any such plate, or who brings into the United States from any foreign place any such plate, except under the direction of the Secretary of Commerce and Labor, or other proper officer, and any person who has in his control, custody, or possession any metallic plate engraved after the similitude of any plate from which any such certificate has been printed, with intent to use such plate or suffer the same to be used in forging or counterfeiting any such certificate or any part thereof; and every person who prints, photographs, or in any other manner causes to be printed, photographed, made, or executed, any print or impression in the likeness of any such certificate, or any part thereof, or who sells any such certificate, or brings the same into the United States from any foreign place, except by direction of some proper officer of the United States, or who has in his possession a distinctive paper which has been adopted by the proper officer of the United States for the printing of such certificate, with intent to unlawfully use the same, shall be punished by a fine of not more than ten thousand dollars, or by imprisonment at hard labor for not less than ten years, or by both such fine and imprisonment.

§ 18. That it is hereby made a felony for any clerk or other person to issue or be a party to the issuance of a certificate of citizenship contrary to the provisions of this act, except upon a final order under the hand of a court having jurisdiction to make such order, and upon convic-

tion thereof such clerk or other person shall be punished by imprisonment for not more than five years and by a fine of not more than five thousand dollars, in the discretion of the court.

§ 19. That every person who without lawful excuse is possessed by any blank certificate of citizenship provided by the Bureau of Immigration and Naturalization, with intent unlawfully to use the same, shall be imprisoned at hard labor not more than five years or be fined not more than one thousand dollars.

§ 20. That any clerk or other officer of a court having power under this act to naturalize aliens, who willfully neglects to render true accounts of moneys received by him for naturalization proceedings or who willfully neglects to pay over any balance of such moneys due to the United States within thirty days after said payment shall become due and demand therefor has been made and refused, shall be deemed guilty of embezzlement of the public moneys, and shall be punishable by imprisonment for not more than five years, or by a fine of not more than five thousand dollars, or both.

§ 21. That it shall be unlawful for any clerk of any court or his authorized deputy or assistant exercising jurisdiction in naturalization proceedings to demand, charge, collect or receive any other additional fees or moneys in naturalization proceedings save the fees and moneys herein specified; and a violation of any of the provisions of this section or any part thereof is hereby declared to be a misdemeanor and shall be punished by imprisonment for not more than two years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment.

§ 22. That the clerk of any court exercising jurisdiction in naturalization proceedings, or any person acting under authority of this act, who shall knowingly certify that a petitioner, affiant, or witness named in an affidavit, petition, or certificate of citizenship, or other paper or writing required to be executed under the provisions of this act, personally appeared before him and was sworn thereto, or acknowledged the execution thereof or signed the same, when in fact such petitioner, affiant, or witness did not personally appear before him, or was not sworn thereto, or did not execute the same, or did not acknowledge the execution thereof, shall be punished by a fine of not exceeding five thousand dollars, or by imprisonment not to exceed five years.

§ 23. That any person who knowingly procures naturalization in violation of the provisions of this act shall



be fined not more than five thousand dollars, or shall be imprisoned not more than five years, or both, and upon conviction the court in which such conviction is had shall thereupon adjudge and declare the final order admitting such person to citizenship void. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication. Any person who knowingly aids, advises, or encourages any person not entitled thereto to apply for or to secure naturalization, or to file the preliminary papers declaring an intent to become a citizen of the United States, or who in any naturalization proceeding knowingly procures or gives false testimony as to any material fact, or who knowingly makes an affidavit false as to any material fact required to be proved in such proceeding, shall be fined not more than five thousand dollars, or imprisoned not more than five years, or both.

§ 24. That no person shall be prosecuted, tried, or punished for crime arising under the provisions of this act unless the indictment is found or the information is filed within five years next after the commission of such crime.

§ 25. That for the purpose of the prosecution of all crimes and offenses against the naturalization laws of the United States which may have been committed prior to the date when this act shall go into effect, the existing naturalization laws shall remain in full force and effect.

§ 26. That sections twenty-one hundred and sixty-five, twenty-one hundred and sixty-seven, twenty-one hundred and sixty-eight, twenty-one hundred and seventy-three of the Revised Statutes of the United States of America, and section thirty-nine of chapter one thousand and twelve of the Statutes at Large of the United States of America for the year nineteen hundred and three, and all acts or parts of acts inconsistent with or repugnant to the provisions of this act are hereby repealed.

Sec. 27. That substantially the following forms shall be used in the proceedings to which they relate:

#### DECLARATION OF INTENTION.

(Invalid for all purposes seven years after the date hereof.)  
....., SS:

I, ....., aged.....years, occupation.....  
do declare on oath (affirm) that my personal description  
is: Color....., complexion....., height.....,  
weight....., color of hair.....; I was born in.....  
on the.....day of....., anno Domini.....; I now



reside at.....; I emigrated to the United States of America from.....on the vessel.....; my last foreign residence was ..... It is my bona fide intention to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to ....., of which I am now a citizen (subject); I arrived at the (port) of....., in the State (Territory or District) of.....on or about the.....day of.....anno Domini.....; I am not an anarchist; I am not a polygamist nor a believer in the practice of polygamy; and it is my intention in good faith to become a citizen of the United States of America and to permanently reside therein. So help me God.

(Original signature of declarant).....

Subscribed and sworn to (affirmed) before me this..... day of....., anno Domini.....

[L. S.]

.....  
(Official character of Attestor.)

#### PETITION FOR NATURALIZATION.

.....Court of.....

In the matter of the petition of.....to be admitted as a citizen of the United States of America.

To the.....Court:

The petition of.....respectfully shows:

First. My full name is.....

Second. My place of residence is number.....street, city of....., State (Territory or District) of.....

Third. My occupation is.....

Fourth. I was born on the.....day of..... at.....

Fifth. I emigrated to the United States from....., on or about the.....day of....., anno Domini ....., and arrived at the port of....., in the United States, on the vessel.....

Sixth. I declared my intention to become a citizen of the United States on the.....day of.....at....., in the.....Court of.....

Seventh. I am....married. My wife's name is..... She was born in.....and now resides at..... I have.....children, and the name, date, and place of birth and place of residence of each of said children is as follows: .....; .....; .....

Eighth. I am not a disbeliever in or opposed to organized government or a member of or affiliated with any or-

ganization or body of persons teaching disbelief in organized government. I am not a polygamist nor a believer in the practice of polygamy. I am attached to the principles of the Constitution of the United States, and it is my intention to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to....., of which at this time I am a citizen (or subject), and it is my intention to reside permanently in the United States.

Ninth. I am able to speak the English language.

Tenth. I have resided continuously in the United States of America for a term of five years at least immediately preceding the date of this petition, to-wit, since....., anno Domini....., and in the State (Territory or District) of.....for one year at least next preceding the date of this petition, to-wit, since.....day of....., anno Domini.....

Eleventh. I have not heretofore made petition for citizenship to any court. (I made petition for citizenship to the.....court of.....at....., and the said petition was denied by the said court for the following reasons and causes, to-wit, ....., and the cause of such denial has since been cured or removed.)

Attached hereto and made a part of this petition are my declaration of intention to become a citizen of the United States and the certificate from the Department of Commerce and Labor required by law. Wherefore your petitioner prays that he may be admitted a citizen of the United States of America.

Dated.....

(Signature of petitioner).....

....., SS:

....., being duly sworn, deposes and says that he is the petitioner in the above-entitled proceeding; that he has read the foregoing petition and knows the contents thereof; that the same is true of his own knowledge, except as to matters stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

Subscribed and sworn to before me this.....day of  
....., anno Domini.....

[L. S.]

.....Clerk,  
Clerk of the.....Court.

.....Court of.....

....., SS:

.....,

.....

Subscribed and sworn to before me this.....day of  
....., nineteen hundred and.....

.....,  
(Official character of Attestor.)

## Number.....

Petition, volume....., page.....

Stub, volume....., page.....

(Signature of holder).....

Description of holder: Age.....; height.....;  
color.....; complexion.....; color of eyes.....;  
color of hair.....; visible distinguishing marks.....  
Name, age and place of residence of wife..... Names,  
ages and places of residence of minor children,.....  
....., ....., ....., ....., ....., .....  
....., ....., .....  
....., SS.

Be it remembered, that at a.....term of the.....  
court of....., held at....., on the.....day of  
....., in the year of our Lord nineteen hundred and  
....., who, previous to his (her) naturalization  
was a citizen or subject of....., at present residing at  
number....., .....street, .....city (town), .....



State (Territory or District), having applied to be admitted a citizen of the United States of America pursuant to law, and the court having found that the petitioner had resided continuously within the United States for at least five years and in this State for one year immediately preceding the date of the hearing of his (her) petition, and that said petitioner intends to reside permanently in the United States, had in all respects complied with the law in relation thereto, and that...he was entitled to be so admitted, it was thereupon ordered by the said court that...he be admitted as a citizen of the United States of America.

In testimony whereof the seal of said court is hereunto affixed on the.....day of....., in the year of our Lord nineteen hundred and....., and of our independence the.....

[L. S.]

.....  
(Official character of Attestor.)

#### STUB OF CERTIFICATE OF NATURALIZATION.

Number of certificate.....

Name.....; age.....

Declaration of intention, volume....., page.....

Petition, volume....., page.....

Name, age, and place of residence of wife....., .....

Names, ages, and places of residence of minor children,

....., ....., ....., ....., ....., .....

....., ....., .....

Date of order, volume....., page.....

(Signature of holder).....

Sig. 7.

§ 28. That the Secretary of Commerce and Labor shall have power to make such rules and regulations as may be necessary for properly carrying into execution the various provisions of this act. Certified copies of all papers, documents, certificates, and records required to be used, filed, recorded, or kept under any and all of the provisions of this act shall be admitted in evidence equally with the originals in any and all proceedings under this act and in all cases in which the originals thereof might be admissible as evidence.

§ 29. That for the purpose of carrying into effect the provisions of this act there is hereby appropriated the sum of one hundred thousand dollars, out of any moneys in the Treasury of the United States, not otherwise appropriated, which appropriation shall be in full for the objects hereby expressed until June 30, 1907: and the provisions of Section

3679 of the Revised Statutes of the United States shall not be applicable in any way to this appropriation.

§ 30. That all the applicable provisions of the naturalization laws of the United States shall apply to and be held to authorize the admission to citizenship of all persons not citizens who owe permanent allegiance to the United States, and who may become residents of any State or organized Territory of the United States, with the following modifications: The applicant shall not be required to renounce allegiance to any foreign sovereignty; he shall make his declaration of intention to become a citizen of the United States at least two years prior to his admission; and residence within the jurisdiction of the United States, owing such permanent allegiance, shall be regarded as residence within the United States within the meaning of the five years' residence clause of the existing law.

§ 31. That this act shall take effect and be in force from and after ninety days from the date of its passage; *provided*, that Sections 1, 2, 28, and 29 shall go into effect from and after the passage of this act.

§ 2166. HONORABLY DISCHARGED SOLDIERS ARE EXEMPT FROM CERTAIN FORMALTIES.] Any alien, of the age of twenty-one years and upward, who has enlisted, or may enlist, in the armies of the United States, either the regular or the volunteer forces, and has been, or may be hereafter, honorably discharged, shall be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character, as now provided by law, be satisfied by competent proof of such person's having been honorably discharged from the service of the United States.

§ 2169. (As Amended, 1875). ALIENS OF AFRICAN NATIVITY AND DESCENT.] The provisions of this title shall apply to aliens being free white persons, and to aliens of African nativity and to persons of African descent.

§ 2171. NATURALIZATION TO ALIEN ENEMIES PROHIBITED.] No alien who is a native citizen or subject, or a denizen of any country, state, or sovereignty with which the United States are at war, at the time of his application, shall be then admitted to become a citizen of the United States; but persons resident within the United States, or the territories thereof, on the eighteenth day of June, 1812, who had be-

fore that day made a declaration, according to law, of their intention to become citizens of the United States, or who were on that day entitled to become citizens without making such declaration, may be admitted to become citizens thereof, notwithstanding they were alien enemies at the time and in the manner prescribed by the laws heretofore passed on that subject; nor shall anything herein contained be taken to construed to interfere with or prevent the apprehension and removal, agreeably to law, of any alien enemy at any time previous to the actual naturalization of such alien.

§ 2172. CHILDREN OF PERSONS NATURALIZED UNDER CERTAIN LAWS TO BE CITIZENS.] The children of persons who have been duly naturalized under any law of the United States, or who, previous to the passing of any law on that subject, by the Government of the United States, may have become citizens of any one of the states, under the laws thereof, being under the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof; and the children of persons who now are, or have been, citizens of the United States, shall, though born out of the limits and jurisdiction of the United States, be considered as citizens thereof; but no person heretofore proscribed by any state, or who has been legally convicted of having joined the army of Great Britain during the Revolutionary War, shall be admitted to become a citizen without the consent of the legislature of the state in which such person was proscribed.

§ 2174. ALIEN SEAMEN OF MERCHANT VESSELS.] Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have served three years on board of a merchant vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such citizen.



§ 14. NATURALIZATION OF CHINESE PROHIBITED.] That hereafter no state court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed.

ALIENS HONORABLY DISCHARGED FROM SERVICE IN NAVY OR MARINE CORPS.] Any alien of the age of twenty-one years and upward who has enlisted or may enlist in the United States Navy or Marine Corps, and has served or may hereafter serve five consecutive years in the United States Marine Corps, and has been or may hereafter be honorably discharged, shall be admitted to become a citizen of the United States upon his petition, without any previous declaration of his intention to become such; and the court admitting such alien shall, in addition to proof of good moral character, be satisfied competent proof of such person's service in and honorable discharge from the United States Navy or Marine Corps.

#### AN ACT TO VALIDATE CERTAIN CERTIFICATES OF NATURALIZATION.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That naturalization certificates issued after the act approved March 3, 1903, entitled "An act to regulate the immigration of aliens into the United States," went into effect, which fail to show that the courts issuing said certificates complied with the requirements of Section 39 of said act, but which were otherwise lawfully issued, are hereby declared to be as valid as though said certificates complied with said moral character, be satisfied by competent proof of such persecution; *provided*, that in all such cases applications shall be made for new naturalization with the provisions of said act of 1903, they shall relate back to the defective certificates, and citizenship shall be deemed to have been perfected at the date of the defective certificate.

Sec. 2. That all the records relating to naturalization, all declarations of intention to become citizens of the United States and all certificates of naturalization filed, recorded, or issued prior to the time when this act takes effect in or from the criminal court of Cook County, Illinois, shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court with jurisdiction to naturalize aliens, but shall not be by this act further validated or legalized.

## STATE CONSTITUTION.

[Adopted Oct. 1, 1889; yeas, 27,441; nays, 8,107.]

We, the people of North Dakota, grateful to Almighty God for the blessings of civil and religious liberty, do ordain and establish this constitution.

## ARTICLE 1.—DECLARATION OF RIGHTS.

§ 1. All men are by nature equally free and independent and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property and reputation; and pursuing and obtaining safety and happiness.

§ 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have a right to alter or reform the same whenever the public good may require.

§ 3. The state of North Dakota is an inseparable part of the American union and the constitution of the United States is the supreme law of the land.

§ 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall be forever guaranteed in this state, and no person shall be rendered incompetent to be a witness or juror on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

§ 5. The privilege of the writ of habeas corpus shall not be suspended unless, when in case of rebellion or invasion, the public safety may require.

§ 6. All persons shall be bailable by sufficient sureties, unless for capital offenses, when the proof is evidence or the presumption great. Excessive bail shall not be required, nor excessive fines, imposed, nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor be confined in any room where criminals are actually imprisoned.

§ 7. The right of trial by jury shall be secured to all, and remain inviolate; but a jury in civil cases, in courts not of record, may consist of less than twelve men; as may be prescribed by law.

§ 8. Until otherwise provided by law, no person shall for a felony, be proceeded against criminally, otherwise than by indictment, except in cases arising in the land or naval forces, or in the militia when in actual service in time of war or public danger. In all other cases offenses shall be prosecuted criminally by indictment or information. The legislative assembly may change, regulate or abolish the grand jury system.

§ 9. Every man may freely write, speak and publish his opinions on all subjects, being responsible for the abuse of that privilege. In all civil and criminal trials for libel the truth may be given in evidence, and shall be sufficient defense when the matter is published with good motives and for justifiable ends; and the jury shall have the same power of giving a general verdict as in other cases; and in all indictments or informations for libels the jury shall have the right to determine the law and the facts under the direction of the court, as in other cases.

§ 10. The citizens have a right, in a peaceable manner, to assemble together for the common good, and to apply to those invested with the powers of the government for the redress of grievances, or for other purposes, by petition, address or remonstrance.

§ 11. All laws of a general nature shall have a uniform operation.

§ 12. The military shall be subordinate to the civil power. No standing army shall be maintained by this state in time of peace, and no soldiers shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

§ 13. In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.

§ 14. Private property shall not be taken or damaged for public use without just compensation having been first



made to or paid into court for the owner and no right of way shall be appropriated to the use of any corporation, other than municipal, until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefit from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived.

§ 15. No person shall be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors, in such manner as shall be prescribed by law; or in cases of tort; or where there is strong presumption of fraud.

§ 16. No bill of attainder, ex post facto law, or law impairing the obligations of contracts shall ever be passed.

§ 17. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this state.

§ 18. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

§ 19. Treason against the state shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

§ 20. No special privileges or immunities shall ever be granted which may not be altered, revoked or repealed by the legislative assembly; nor shall any citizen or class of citizens be granted privileges or immunities which upon the same terms shall not be granted to all citizens.

§ 21. The provisions of this constitution are mandatory and prohibitory unless, by express words, they are declared to be otherwise.

§ 22. All courts shall open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay. Suits may be brought against the state in such manner, in such courts and in such cases as the legislative assembly may, by law, direct.

§ 23. Every citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanor.

§ 24. To guard against transgressions of the high powers which we have delegated, we declare that everything in this article is excepted out of the general powers of government and shall forever remain inviolate.

## ARTICLE II.—LEGISLATIVE DEPARTMENT.

§ 25. The legislative power shall be vested in a senate and house of representatives.

§ 26. The senate shall be composed of not less than thirty nor more than fifty members.

§ 27. Senators shall be elected for the term of four years, except as hereinafter provided.

§ 28. No person shall be a senator who is not a qualified elector in the district in which he may be chosen, and who shall not have attained the age of twenty-five years, and have been a resident of the state or territory for two years next preceding his election.

§ 29. The legislative assembly shall fix the number of senators, and divide the state into as many senatorial districts as there are senators, which districts, as nearly as may be, shall be equal to each other in the number of inhabitants entitled to representation. Each district shall be entitled to one senator and no more, and shall be composed of compact and contiguous territory; and no portion of any county shall be attached to any other county, or part thereof, so as to form a district. The districts as thus ascertained and determined shall continue until changed by law.

§ 30. The senatorial districts shall be numbered consecutively from one upwards, according to the number of districts prescribed, and the senators shall be divided into two classes. Those elected in the districts designated by even numbers shall constitute one class, and those elected in districts designated by odd numbers shall constitute the other class. The senators in one class elected in the year 1890 shall hold their office for two years, those of the other class shall hold their office four years, and the determination of the two classes shall be by lot, so that one-half of the senators, as nearly as practicable, may be elected biennially.

§ 31. The senate at the beginning and close of each regular session, and at such other times as may be necessary, shall elect one of its members president pro tempore, who may take the place of the lieutenant governor under rules prescribed by law.

§ 32. The house of representatives shall be composed of not less than sixty nor more than one hundred and forty members.

§ 33. Representatives shall be elected for the term of two years.

§ 34. No person shall be a representative who is not a qualified elector in the district from which he may be chosen, and who shall not have attained the age of twenty-one years, and have been a resident of the state or territory for two years next preceding his election.

§ 35. The members of the house of representatives shall be apportioned to and elected at large from each senatorial district. The legislative assembly shall, in the year 1895, and every tenth year, cause an enumeration to be made of all the inhabitants of this state, and shall at its first regular session after each enumeration, and also after each federal census, proceed to fix by law the number of senators which shall constitute the senate of North Dakota, and the number of representatives which shall constitute the house of representatives of North Dakota, within the limits prescribed by this constitution, and at the same session shall proceed to reapportion the state into senatorial districts, as prescribed by this constitution, and to fix the number of members of the house of representatives to be elected from the several senatorial districts; provided, that the legislative assembly may, at any regular session, redistrict the state into senatorial districts and apportion the senators and representatives respectively.

§ 36. The house of representatives shall elect one of its members as speaker.

§ 37. No judge or clerk of any court, secretary of state, attorney general, register of deeds, sheriff or person holding any office of profit under this state, except in the militia, or the office of attorney at law, notary public or justice of the peace, and no person holding any office of profit or honor under any foreign government, or under the government of the United States, except postmasters whose annual compensation does not exceed the sum of \$300, shall hold any office in either branch of the legislative assembly or become a member thereof.



§ 38. No member of the legislative assembly expelled for corruption, and no person convicted of bribery, perjury or other infamous crime, shall be eligible to the legislative assembly, or to any office in either branch thereof.

§ 39. No member of the legislative assembly shall, during the term for which he was elected, be appointed or elected to any civil office in this state, which shall have been created, or the emoluments of which shall have been increased, during the term for which he was elected; nor shall any member receive any civil appointment from the governor, or governor and senate, during the term for which he shall have been elected.

§ 40. If any person elected to either house of the legislative assembly shall offer or promise to give his vote or influence in favor of or against any measures or proposition pending or proposed to be introduced into the legislative assembly, in consideration, or upon conditions, that any other person elected to the same legislative assembly will give, or will promise or assent to give, his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced into such legislative assembly, the person making such offer or promise shall be deemed guilty of solicitation of bribery. If any member of the legislative assembly shall give his vote or influence for or against any measure or proposition, pending or proposed to be introduced into such legislative assembly, or offer, promise or assent so to do upon condition that any other member will give, promise or assent to give his vote or influence in favor of or against any other measure or proposition pending or proposed to be introduced into such legislative assembly, or in consideration that any other member hath given his vote or influence for or against any other measure or proposition in such legislative assembly, he shall be deemed guilty of bribery. And any person, member of the legislative assembly or person elected thereto, who shall be guilty of either such offenses, shall be expelled, and shall not thereafter be eligible to the legislative assembly, and on the conviction thereof, in the civil courts, shall be liable to such further penalty as may be prescribed by law.

§ 41. The term of service of the members of the legislative assembly shall begin on the first Tuesday in January, next after their election.

§ 42. The members of the legislative assembly shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the ses-

sions of their respective houses, and in going to or returning from the same. For words used in any speech or debate in either house, they shall not be questioned in any other place.

§ 43. Any member who has a personal or private interest in any measure or bill proposed or pending before the legislative assembly, shall disclose the fact to the house of which he is a member and shall not vote thereon without the consent of the house.

§ 44. The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislative assembly.

§ 45. Each member of the legislative assembly shall receive as a compensation for his services for each session, five dollars per day, and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the legislative assembly on the most usual route.

§ 46. A majority of the members of each house shall constitute a quorum, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such a manner and under such a penalty as may be prescribed by law.

§ 47. Each house shall be the judge of the election returns and the qualifications of its own members.

§ 48. Each house shall have the power to determine the rules of proceeding, and punish its members or other persons for contempt or disorderly behavior in its presence; to protect its members against violence or offers of bribes or private solicitation, and with the concurrence of two-thirds, to expel a member; and shall have all other powers necessary and usual in the legislative assembly of a free state. But no imprisonment by either house shall continue beyond thirty days. Punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

§ 49. Each house shall keep a journal of its proceedings, and the yeas and nays on any question shall be taken and entered on the journal at the request of one-sixth of those present.

§ 50. The sessions of each house and of the committee of the whole shall be open unless the business is such as ought to be kept secret.

§ 51. Neither house shall, without the consent of the other, adjourn for more than three days nor to any other

place than that in which the two houses shall be sitting, except in the case of epidemic, pestilence or other great danger.

§ 52. The senate and house of representatives jointly shall be designated as the legislative assembly of the state of North Dakota.

§ 53. The legislative assembly shall meet at the seat of government at 12 o'clock noon on the first Tuesday after the first Monday in January, in the year next following the election of the members thereof.

§ 54. In all elections to be made by the legislative assembly, or either house thereof, the members shall vote viva voce, and their votes shall be entered in the journal.

§ 55. The sessions of the legislative assembly shall be biennial, except as otherwise provided in this constitution.

§ 56. No regular session of the legislative assembly shall exceed sixty days, except in case of impeachment, but the first session of the legislative assembly may continue for a period of one hundred and twenty days.

§ 57. Any bill may originate in either house of the legislative assembly, and a bill passed by one house may be amended by the other.

§ 58. No law shall be passed, except by a bill adopted by both houses, and no bill shall be so altered and amended on its passage through either house as to change its original purpose.

§ 59. The enacting clause of every law shall be as follows: "Be it enacted by the Legislative Assembly of the State of North Dakota."

§ 60. No bill for the appropriation of money, except for the expenses of the government, shall be introduced after the fortieth day of the session, except by unanimous consent of the house in which it is sought to be introduced.

§ 61. No bill shall embrace more than one subject, which shall be expressed in its title, but a bill which violates this provision shall be invalidated thereby only as to so much thereof as shall not be so expressed.

§ 62. The general appropriation bill shall embrace nothing but appropriations for the expenses of the executive, legislative and judicial departments of the state, interest on the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.



§ 63. Every bill shall be read through three times, but the first and second readings, and those only, may be upon the same day; and the second reading may be by title of the bill unless a reading at length be demanded. The first and third readings shall be at length. No legislative day shall be shorter than the natural day.

§ 64. No bill shall be revised or amended, nor the provisions thereof extended or incorporated in any other bill by reference to its title only, but so much thereof as is revised, amended or extended or so incorporated shall be re-enacted and published at length.

§ 65. No bill shall become a law except by a vote of a majority of all the members-elect in each house, nor unless, on its final passage, the vote be taken by yeas and nays, and the names of those voting be entered on the journal.

§ 66. The presiding officer of each house shall, in the presence of the house over which he presides, sign all bills and joint resolutions passed by the legislative assembly; immediately before such signing their title shall be publicly read and the fact of signing shall be at once entered on the journal.

§ 67. No act of the legislative assembly shall take effect until July 1, after the close of the session, unless in case of emergency (which shall be expressed in the preamble or body of the act) the legislative assembly shall, by a vote of two-thirds of all the members present in each house, otherwise direct.

§ 68. The legislative assembly shall pass all laws necessary to carry into effect the provisions of this constitution.

§ 69. The legislative assembly shall not pass local or special laws in any of the following enumerated cases, that is to say:

1. For granting divorces.
2. Laying out, opening, altering, or working roads or highways, vacating roads, town plats, streets, alleys or public grounds.
3. Locating or changing county seats.
4. Regulating county or township affairs.
5. Regulating the practice of courts of justice.
6. Regulating the jurisdiction and duties of justices of the peace, police magistrates or constables.
7. Changing the rules of evidence in any trial or inquiry.

8. Providing for changes of venue in civil or criminal cases.

9. Declaring any person of age.

10. For limitation of civil actions, or giving effect to informal or invalid deeds.

11. Summoning or impaneling grand or petit juries.

12. Providing for the management of common schools.

13. Regulating the rate of interest on money.

14. The opening or conducting of any election or designating the place of voting.

15. The sale or mortgage of real estate belonging to minors or others under disability.

16. Chartering or licensing ferries, toll bridges or toll roads.

17. Remitting fines, penalties or forfeitures.

18. Creating, increasing or decreasing fees, percentages or allowances of public officers.

19. Changing the law of descent.

20. Granting to any corporation, association or individual the right to lay down railroad tracks or any special or exclusive privilege, immunity or franchise whatever.

21. For the punishment of crimes.

22. Changing the names of persons or places.

23. For the assessment or collection of taxes.

24. Affecting estates of deceased persons, minors or others under legal disability.

25. Extending the time for collection of taxes.

26. Refunding money into the state treasury.

27. Relinquishing or extinguishing in whole or in part the indebtedness, liability or obligation of any corporation or person to this state or to any municipal corporation therein.

28. Legalizing, except as against the state, the unauthorized or invalid act of any officer.

29. Exempting property from taxation.

30. Restoring to citizenship persons convicted of infamous crimes.

31. Authorizing the creation, extension or impairing of liens.

32. Creating offices, or prescribing the powers or duties of officers in counties, cities, townships, election or school districts, or authorizing the adoption or legitimation of children.

33. Incorporation of cities, town or villages, or changing or amending the charter of any town, city or village.

34. Providing for the election of members of the board of supervisors in townships, incorporated towns or cities.

35. The protection of game or fish .

§ 70. In all other cases where a general law can be made applicable, no special law shall be enacted; nor shall the legislative assembly indirectly enact such special or local law by the partial repeal of a general law, but laws repealing local or special acts may be passed

### ARTICLE III.—EXECUTIVE DEPARTMENT.

§ 71. The executive power shall be vested in a governor, who shall reside at the seat of government and shall hold his office for the term of two years and until his successor is elected and duly qualified.

§ 72. A lieutenant governor shall be elected at the same time and for the same term as the governor. In case of the death, impeachment, resignation, failure to qualify, absence from the state, removal from office, or the disability of the governor, the powers and duties of the office, for the residue of the term, or until he shall be acquitted or the disability removed, shall devolve upon the lieutenant governor.

§ 73. No person shall be eligible to the office of governor or lieutenant governor unless he be a citizen of the United States, and a qualified elector of the state, who shall have attained the age of thirty years, and who shall have resided five years next preceding the election within the state of territory, nor shall he be eligible to any other office during the term for which he shall have been elected.

§ 74. The governor and lieutenant governor shall be elected by the qualified electors for the state at the time and places of choosing members of the legislative assembly. The persons having the highest number of votes for governor and lieutenant governor respectively shall be declared elected, but if two or more shall have an equal and highest number of votes for governor or lieutenant governor, the two houses of the legislative assembly at its next regular session shall forthwith, by joint ballot, choose one of such persons for said office. The returns of the election for governor and lieutenant governor shall be made in such manner as shall be prescribed by law.

§ 75. The governor shall be commander-in-chief of the military and naval forces of the state, except when they shall



be called into the service of the United States, and may call out the same to execute the laws, suppress insurrection and repel invasion. He shall have power to convene the legislative assembly on extraordinary occasions. He shall at the commencement of each session communicate to the legislative assembly on extraordinary occasions. He shall at the the state, and recommend such measures as he shall deem expedient. He shall transact all necessary business with the officers of the government, civil and military. He shall expedite all such measures as may be resolved upon by the legislative assembly and shall take care that the laws be faithfully executed.

Note—This section amended by Article 3, Amendments to the constitution.

§ 76. The governor shall have power to remit fines and forfeitures, to grant reprieve, commutations and pardons after conviction, for all offenses except treason and cases of impeachment; but the legislative assembly may by law regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for. Upon conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the legislative assembly at its next regular session, when the legislative assembly shall either pardon or commute the sentence, direct the execution of the sentence or grant further reprieve. He shall communicate to the legislative assembly at each regular session each case of remission of fine, reprieve, commutation, or pardon granted by him, stating the name of the convict, the crime for which he is convicted, the sentence and its date, and the date of the remission, commutation, pardon or reprieve, with his reasons for granting the same.

§ 77. The lieutenant governor shall be president of the senate, but shall have no vote unless they be equally divided. If, during a vacancy in the office of governor, the lieutenant governor shall be impeached, displaced, resign or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the secretary of state shall act as governor until the vacancy shall be filled or the disability removed.

§ 78. When any office shall from any cause become vacant and no mode is provided by the constitution or law for filling such vacancy, the governor shall have power to fill such vacancy by appointment.

§ 79. Every bill which shall have passed the legislative assembly shall, before it becomes a law, be presented to the governor. If he approve, he shall sign, but if not, he shall

return it with his objections, to the house in which it originated, which shall enter the objections at large upon the journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members-elect shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of the members-elect, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law unless the legislative assembly, by its adjournment, prevent its return, in which case it shall be law unless he shall file the same with his objections in the office of the secretary of state within fifteen days after such adjournment.

§ 80. The governor shall have power to disapprove of any item or items or part or parts of any bill making appropriations of money or property embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items and part or parts disapproved shall be void, unless enacted in the following manner: If the legislative assembly be in session he shall transmit to the house in which the bill originated a copy of the item or items, or part or parts thereof disapproved, together with his objections thereto, and the items or parts objected to shall be separately reconsidered, and each item or part shall then take the same course as is prescribed for the passage of bills over the executive veto.

§ 81. Any governor of this state who asks, receives or agrees to receive, any bribe upon any understanding that his official opinion, judgment or action, shall be influenced thereby, or who gives or offers, or promises his official influence in consideration that any member of the legislative assembly shall give his official vote or influence on any particular side of any question or matter upon which he may be required to act in his official capacity, or who menaces any member by the threatened use of his veto power, or who offers or promises any member that he, the said governor will appoint any particular person or persons to any office created or thereafter to be created, in consideration that any member shall give his official vote or influence on any matter pending or thereafter to be introduced into either house of said legislative assembly, or who threatens any member that he, the said position with intent in any manner to influence the action or

said member, shall be punished in the manner now, or that may hereafter, be provided by law, and upon conviction thereof shall forfeit all right to hold or exercise any office of trust or honor in this state.

§ 82. There shall be chosen by the qualified electors of the state, at the times and places of choosing members of the legislative assembly, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, three commissioners of railroads, an attorney general and one commissioner of agriculture and labor, who shall have attained the age of twenty-five years, shall be citizens of the United States, and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government, for the term of two years and until their successors are elected and duly qualified, but no person shall be eligible to the office of treasurer for more than two consecutive terms.

§ 83. The powers and duties of the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, commissioners of railroads, attorney general and commissioner of agriculture and labor shall be as prescribed by law.

§ 84. Until otherwise provided by law, the governor shall receive an annual salary of three thousand dollars; the lieutenant governor shall receive an annual salary of one thousand dollars; the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, commissioners of railroads, and attorney general shall each receive an annual salary of two thousand dollars; the salary of the commissioner of agriculture and labor shall be as prescribed by law, but the salaries of any of the said officers shall not be increased or diminished during the period for which they shall have been elected, and all fees and profits arising from any of the said offices shall be covered into the state treasury.

#### ARTICLE IV.—JUDICIAL DEPARTMENT.

§ 85. The judicial power of the state of North Dakota shall be vested in a supreme court, district courts, county courts, justices of the peace, and in such other courts as may be created by law for cities, incorporated towns and villages.

§ 86. The supreme court, except as otherwise provided in this constitution, shall have appellate jurisdiction only, which shall be co-extensive with the state and shall have a



general superintending control over all inferior courts under such regulations and limitations as may be prescribed by law.

§ 87. It shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction and such other original and remedial writs as may be necessary to the proper exercise of its jurisdiction, and shall have authority to hear and determine the same; provided, however, that no jury trial shall be allowed in said supreme court, but in proper cases questions of fact may be sent by said court to a district court for trial.

§ 88. Until otherwise provided by law three terms of the supreme court shall be held each year, one at the seat of government, one at Fargo in the County of Cass, and one at Grand Forks, in the County of Grand Forks.

Note—Under the provisions of an act of the legislature of 1909, two general terms of the supreme court shall be held at the seat of government, to be known as the April and October terms, and only special terms will be held at cities other than Bismarck upon twenty days previous published notice.

§ 89. The supreme court shall consist of three judges, a majority of whom shall be necessary to form a quorum or pronounce a decision, but one or more of said judges may adjourn the court from day to day or to a day certain.

Note:—Five judges provided for by amendment adopted 1908.

§ 90. The judges of the supreme court shall be elected by the qualified electors of the state at large, and except as may be otherwise provided herein for the first election for judges under this constitution, said judges shall be elected at general elections.

§ 91. The term of office of the judges of the supreme court except as in this article otherwise provided, shall be six years, and they shall hold their offices until their successors are duly qualified.

§ 92. The judges of the supreme court shall, immediately after the first election under this constitution, be classified by lot so that one shall hold his office for the term of three years, one for the term of five years, and one for the term of seven years from the first Monday in December, A. D. 1889. The lots shall be drawn by the judges, who shall for that purpose assemble at the seat of government, and they shall cause the result thereof to be certified to the secretary of state of the territory and filed in his office, unless the secretary of state of North Dakota shall have entered

upon the duties of his office, in which event said certification shall be filed therein. The judge having the shortest term to serve, not holding his office by election or appointment to fill a vacancy, shall be chief justice and shall preside at all terms of the supreme court, and in case of his absence the judge having in like manner the next shortest term to serve shall preside in his stead.

§ 93. There shall be a clerk and also a reporter of the supreme court, who shall be appointed by the judges thereof, and who shall hold their offices during the pleasure of said judges, and whose duty and emoluments shall be prescribed by law and by rules of the supreme court not inconsistent with law. The legislative assembly shall make provision for the publication and distribution of the decisions of the supreme court and for the sale of the published volumes thereof.

§ 94. No person shall be eligible to the office of judge of the supreme court unless he be learned in the law, be at least thirty years of age and a citizen of the United States, nor unless he shall have resided in this state or the territory of Dakota three years next preceding his election.

§ 95. Whenever the population of the state of North Dakota shall equal 600,000 the legislative assembly shall have the power to increase the number of the judges of the supreme court to five, in which event a majority of said court, as thus increased, shall constitute a quorum.

Note—See Amendments, Article X.

§ 96. No duties shall be imposed by law upon the supreme court or any of the judges thereof, except such as are judicial, nor shall any of the judges thereof exercise any power of appointment except as herein provided.

§ 97. The style of all process shall be "The State of North Dakota." All prosecutions shall be carried on in the name and by the authority of the State of North Dakota, and conclude "against the peace and dignity of the State of North Dakota."

§ 98. Any vacancy happening by death, resignation or otherwise in the office of judge of the supreme court shall be filled by appointment, by the governor, which appointment shall continue until the first general election thereafter, when said vacancy shall be filled by election.

§ 99. The judges of the supreme and district courts shall receive such compensation for their services as may be prescribed by law, which compensation shall not be in-

creased or diminished during the term for which a judge shall have been elected.

§ 100. In case a judge of the supreme court shall be in any way interested in a cause brought before said court the remaining judges of said court shall call one of the district judges to sit with them in the hearing of said cause.

§ 101. When a judgment or decree is reversed or confirmed by the supreme court every point fairly arising upon the record of the case shall be considered and decided, and the reasons therefor shall be concisely stated in writing, signed by the judges concurring, filed in the office of the clerk of the supreme court, and preserved with a record of the case. Any judge dissenting therefrom may give the reasons of his dissent in writing over his signature.

§ 102. It shall be the duty of the court to prepare a syllabus of the points adjudicated in each case, which shall be concured in by a majority of the judges thereof, and it shall be prefixed to the published reports of the case.

§ 103. The district courts shall have original jurisdiction, except as otherwise provided in this constitution, of all causes both at law and equity, and such appellate jurisdiction as may be conferred by law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same.

§ 104. The state shall be divided into six judicial districts, in each of which there shall be elected at general elections by the electors thereof one judge of the district court therein whose term of office shall be four years from the first Monday in January succeeding his election and until his successor is duly qualified. This section shall not be construed as governing the first election of district judges under this constitution.

§ 105. Until otherwise provided by law, said districts shall be constituted as follows:

District No. 1 shall consist of the counties of Pembina, Cavalier, Walsh, Nelson and Grand Forks.

District No. 2 shall consist of the counties of Ramsey, Towner, Benson, Pierce, Rolette, Bottineau, McHenry, Church, Renville, Ward, Stevens, Mountrail, Garfield, Flannery and Buford.

District No. 3 shall consist of the counties of Cass, Steele and Traill.



District No. 4 shall consist of the counties of Richland, Ransom, Sargent, Dickey and McIntosh.

District No. 5 shall consist of the counties of Logan, La Moure, Stutsman, Barnes, Wells, Foster, Eddy and Griggs.

District No. 6 shall consist of the counties of Burleigh, Emmons, Kidder, Sheridan, McLean, Morton, Oliver, Mercer, Williams, Stark, Hettinger, Bowman, Billings McKenzie, Dunn, Wallace and Allred, and that portion of the Sioux Indian reservation lying north of the seventh standing parallel.

Note—The first district now comprises the counties of Grand Forks and Nelson; the second district comprises the counties of Benson, Eddy, Ramsey, Rolette and Towner; the third district comprises the counties of Cass, Steele and Traill; the fourth district comprises the counties of Dickey, McIntosh, Ransom, Richland and Sargent; the fifth district comprises the counties of Barnes, Foster, Griggs, La Moure, Stutsman and Wells; the sixth district comprises the counties of Burleigh, Emmons, Kidder, Logan, McLean and Sheridan; the seventh district comprises the counties of Cavalier, Pembina and Walsh; the eighth district comprises the counties of Burke, Divide, Renville and Ward; the ninth district comprises the counties of Bottineau, McHenry and Pierce; the tenth district comprises the counties of Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger and Stark; the eleventh district comprises the counties of Mountrail, McKenzie and Williams; the twelfth district comprises the counties of Mercer, Morton and Oliver.

§ 106. The legislative assembly may, whenever two-thirds of the members of each house shall concur therein, but not oftener than once in four years, increase the number of said judicial districts and the judges thereof; such districts shall be formed from compact territory and bounded by county lines, but such increase or change in the boundaries of the districts shall not work the removal of any judge from his office during the term for which he may have been elected or appointed.

§ 107. No person shall be eligible to the office of district judge, unless he be learned in the law, be at least twenty-five years of age, and a citizen of the United States, nor unless he shall have resided within the state or territory of Dakota at least two years next preceding his election, nor unless he shall at the time of his election be an elector within the judicial district for which he is elected.

§ 108. There shall be a clerk of the district court in each organized county in which a court is holden who shall be elected by the qualified electors of the county, and shall hold his office for the same term as other county officers. He shall receive such compensation for his services as may be prescribed by law.

§ 109. Writs of error and appeals may be allowed from the decisions of the district courts to the supreme court under such regulations as may be prescribed by law.

#### COUNTY COURTS.

§ 110. There shall be established in each county a county court which shall be a court of record, open at all times and holden by one judge, elected by the electors of the county, and whose term of office shall be two years.

§ 111. The county court shall have exclusive original jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators and guardians, the sale of lands, by executors, administrators and guardians, and such other probate jurisdiction as may be conferred by law; provided, that whenever the voters of any county having a population of 2,000 or over shall decide by a majority vote that they desire the jurisdiction of said court increased above that limited by this constitution, then said county court shall have concurrent jurisdiction with the district courts in all civil actions where the amount in controversy does not exceed \$1,000, and in all criminal actions below the grade of felony, and in case it is decided by the voters of any county to so increase the jurisdiction of said county court, the jurisdiction in cases of misdemeanors arising under state laws which may have been conferred upon police magistrates shall cease. The qualifications of the judge of the county court in counties where the jurisdiction of said court shall have been increased shall be the same as those of the district judge, except that he shall be a resident of the county at the time of his election, and said county judge shall receive such salary for his services as may be provided by law. In case the voters of any county decide to increase the jurisdiction of said county courts, then such jurisdiction as thus increased shall remain until otherwise provided by law.

#### JUSTICES OF THE PEACE.

§ 112. The legislative assembly shall provide by law for the election of justices of the peace in each organized county within the state. But the number of said justices to be elected in each organized county shall be limited by law to such a number as shall be necessary for the proper administration of justices. The justices of the peace herein provided for shall have concurrent jurisdiction with the district court in all civil actions when the amount in controversy, exclusive of costs, does not exceed \$200, and in coun-

ties where no county court with criminal jurisdiction exists they shall have such jurisdiction to hear and determine cases of misdemeanor as may be provided by law, but in no case shall said justices of the peace have jurisdiction when the boundaries of or title to real estate shall come in question. The legislative assembly shall have power to abolish the office of justice of the peace and confer that jurisdiction upon judges of county courts or elsewhere.

#### POLICE MAGISTRATES.

§ 113. The legislative assembly shall provide by law for the election of police magistrates in cities, incorporated towns and villages, who in addition to their jurisdiction of all cases arising under the ordinances of said cities, towns and villages, shall be ex-officio justices of the peace of the county in which said cities, towns and villages may be located. And the legislative assembly may confer upon said police magistrates the jurisdiction to hear, try and determine all cases of misdemeanors, and the prosecutions therein shall be by information.

§ 114. Appeals shall lie from the county court, final decisions of justices of the peace and police magistrates in such cases and pursuant to such regulations as may be prescribed by law.

#### MISCELLANEOUS PROVISIONS.

§ 115. The time of holding courts in the several counties of a district shall be as prescribed by law, but at least two terms of the district court shall be held annually in each organized county, and the legislative assembly shall make provisions for attaching unorganized counties or territories to organized counties for judicial purposes.

§ 116. Judges of the district courts may hold court in other districts than their own under such regulations as shall be prescribed by law.

§ 117. No judge of the supreme or district court shall act as attorney or counselor at law.

§ 118. Until the legislative assembly shall provide by law for fixing the terms of court, the judges of the supreme and district courts shall fix the terms thereof.

§ 119. No judge of the supreme or district courts shall be elected or appointed to any other than judicial offices or be eligible thereto during the term for which he was elected or appointed such judge. All votes or appoint-



ments for either of them for any elective or appointive office except that of judge of the supreme court, or district court, given by the legislative assembly or the people, shall be void.

§ 120. Tribunals of conciliation may be established with such powers and duties as shall be prescribed by law or the powers and duties of such may be conferred upon other courts of justice; but such tribunals or other courts when sitting as such shall have no power to render judgment to be obligatory on the parties, unless they voluntarily submit their matters of difference and agree to abide the judgment of such tribunals or courts.

#### ARTICLE V.—ELECTIVE FRANCHISE.

§ 121. Every male person of the age of twenty-one years or upwards belonging to either of the following classes, who shall have resided in the state one year, in the county six months and in the precinct ninety days next preceding any election, shall be deemed a qualified elector at such election:

First. Citizens of the United States.

Second. Persons of foreign birth who shall have declared their intention to become citizens one year and not more than six years prior to such election, conformably to the naturalization laws of the United States.

Third. Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election.

Note—This section amended by Article 2, amendments to the constitution.

§ 122. The legislative assembly shall be empowered to make further extensions of suffrage hereafter, at its discretion, to all citizens of mature age and sound mind, not convicted of crime, without regard to sex; but no law extending or restricting the right of suffrage shall be in force until adopted by a majority of the electors of the state voting at a general election.

§ 123. Electors shall in all cases except treason, felony, breach of the peace or illegal voting, be privileged from arrest on the days of election during their attendance at, going to and returning from such election, and no elector shall be obliged to perform military duty on the day of election, except in time of war or public danger.

§ 124. The general elections of the state shall be biennial, and shall be held on the first Tuesday after the first Monday in November; provided, that the first general election under this constitution shall be held on the first Tuesday after the first Monday in November, A. D. 1890.

§ 125. No elector shall be deemed to have lost his residence in this state by reason of his absence on business of the United States or of this state or in the military or naval service of the United States.

§ 126. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this state in consequence of his being stationed therein.

§ 127. No person who is under guardianship, non compos mentis, or insane, shall be qualified to vote at any election, nor shall any person convicted of treason or felony, unless restored to civil rights.

Note—This section amended by Article 2, amendments to the constitution.

§ 128. Any woman having the qualifications enumerated in section 121 of this article, as to age, residence and citizenship, and including those now qualified by the laws of the territory, may vote for all school officers, and upon all questions pertaining solely to school matters, and be eligible to any school office.

§ 129. All elections by the people shall be by secret ballot subject to such regulations as shall be provided by law.

#### ARTICLE VI.—MUNICIPAL CORPORATIONS.

§ 130. The legislative assembly shall provide by general law for the organization of municipal corporations, restricting their powers as to levying taxes and assessments, borrowing money and contracting debts; and money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law.

#### ARTICLE VII.—CORPORATIONS OTHER THAN MUNICIPAL.

§ 131. No charter of incorporation shall be granted, changed or amended by special law, except in the case of such municipal, charitable, educational, penal or reformatory corporations as may be under the control of the state; but the legislative assembly shall provide by general laws for the organization of all corporations hereafter to be created, and any such law, so passed, shall be subject to future repeal or alteration.

§ 132. All existing charters or grants of special or exclusive privileges, under which a bona fide organization shall not have taken place and business been commenced in good faith at the time this constitution takes effect, shall thereafter have no validity.

§ 133. The legislative assembly shall not remit the forfeiture of the charter to any corporation now existing, nor alter or amend the same, nor pass any other general or special law for the benefit of such corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this constitution.

§ 134. The exercise of the right of eminent domain shall never be abridged, or so construed as to prevent the legislative assembly from taking the property and franchises of incorporated companies and subjecting them to public use, the same as the property of individuals; and the exercise of the police power of this state shall never be abridged, or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals, or the general well being of the state.

§ 135. In all elections for directors or managers of a corporation, each member or shareholder may cast the whole number of his votes for one candidate, or distribute them upon two or more candidates, as he may prefer.

§ 136. No foreign corporation shall do business in this state without having one or more places of business and an authorized agent or agents in the same, upon whom process may be served.

§ 137. No corporation shall engage in any business other than that expressly authorized in its charter.

§ 138. No corporation shall issue stock or bonds except for money, labor done, or money or property actually received; and all fictitious increase of stock or indebtedness shall be void. The stock and indebtedness of corporations shall not be increased except in pursuance of general law, nor without the consent of the persons holding the larger amount in value of the stock first obtained at a meeting to be held after sixty days' notice given in pursuance of law.

§ 139. No law shall be passed by the legislative assembly granting the right to construct and operate a street railroad, telegraph, telephone or electric light plant within any city, town or incorporated village, without requiring the consent of the local authorities having the control of the street or highway proposed to be occupied for such purposes.



§ 140. Every railroad corporation organized and doing business in this state under the laws or authority thereof, shall have and maintain a public office or place in the state for the transaction of its business, where transfer of its stock shall be made and in which shall be kept for public inspection books in which shall be recorded the amount of capital stock subscribed, and by whom, the names of the owners of its stock and the amount owned by them respectively; the amount of stock paid in and by whom and the transfer of said stock; the amount of its assets and liabilities and the names and place of residence of its officers. The directors of every railroad corporation shall annually make a report under oath to the auditor of public accounts, or some officer or officers to be designated by law, of all their acts and doings, which report shall include such matters relating to railroads as may be prescribed by law, and the legislative assembly shall pass laws enforcing by suitable penalties the provisions of this section; provided, the provisions of this section shall not be so construed as to apply to foreign corporations.

§ 141. No railroad corporation shall consolidate its stock, property or franchise with any other railroad corporation owning a parallel or competing line; and in no case shall any consolidation take place except upon public notice given at least sixty days to all stockholders, in such manner as may be provided by law. Any attempt to evade the provisions of this section by any railroad corporation by lease or otherwise, shall work a forfeiture of its charter.

§ 142. Railways heretofore constructed, or that may hereafter be constructed in this state, are hereby declared public highways, and all railroads, sleeping cars, telegraph, telephone and transportation companies of passengers, intelligence and freight are declared to be common carriers and subject to legislative control; and the legislative assembly shall have power to enact laws regulating and controlling the rates of charges for the transportation of passengers, intelligence and freight; as such common carriers, from one point to another in this state; provided, that appeal may be had to the courts of this state from the rates so fixed; but the rates fixed by the legislative assembly or board of railroad commissioners shall remain in force pending the decision of the courts.

§ 143. Any association or corporation organized for the purpose shall have the right to construct and operate a railroad between any points within this state, and to connect at the state line with the railroads of other states. Every

railroad company shall have the right with its road to intersect, connect with or cross any other, and shall receive and transport each other's passengers, tonnage and cars, loaded or empty, without delay or discrimination.

§ 144. The term "corporation" as used in this article shall not be understood as embracing municipalities or political subdivisions of the state unless otherwise expressly stated, but it shall be held and construed to include all associations and joint stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships.

§ 145. If a general banking law be enacted, it shall provide for the registry and countersigning by an officer of the state, of all notes or bills designed for circulation, and that ample security to the full amount thereof shall be deposited with the state treasurer for the redemption of such notes or bills.

§ 146. Any combination between individuals, corporations, associations, or either, having for its object or effect the controlling of the price of any product of the soil or any article of manufacture of commerce, or the cost of exchange or transportation, is prohibited and hereby declared unlawful and against public policy; and any and all franchises heretofore granted or extended, or that may hereafter be granted or extended in this state, whenever the owner or owners thereof violate this article, shall be deemed annulled and become void.

## ARTICLE VIII.—EDUCATION.

§ 147. A high degree of intelligence, patriotism, integrity and morality on the part of every voter in a government by the people being necessary in order to insure the continuance of that government and the prosperity and happiness of the people, the legislative assembly shall make provision for the establishment and maintenance of a system of public schools which shall be open to all children of the State of North Dakota and free from sectarian control. This legislative requirement shall be irrevocable without the consent of the United States and the people of North Dakota.

§ 148. The legislative assembly shall provide, at its first session after the adoption of this constitution, for a uniform system for free public schools throughout the state, beginning with the primary and extending through all grades up to and including the normal and collegiate course.

§ 149. In all schools instruction shall be given as far as practicable in those branches of knowledge that tend to impress upon the mind, the vital importance of truthfulness, temperance, purity, public spirit, and respect for honest labor of every kind.

§ 150. A superintendent of schools for each county shall be elected every two years, whose qualifications, duties, powers and compensation shall be fixed by law.

§ 151. The legislative assembly shall take such other steps as may be necessary to prevent illiteracy, secure a reasonable degree of uniformity in course of study, and to promote industrial, scientific, and agricultural improvements.

§ 152. All colleges, universities, and other educational institutions, for the support of which lands have been granted to this state, or which are supported by a public tax, shall remain under the absolute and exclusive control of the state. No money raised for the support of the public schools of the state shall be appropriated to or used for the support of any sectarian school.

#### ARTICLE IX.—SCHOOL AND PUBLIC LANDS.

§ 153. All proceeds of the public lands that have heretofore been or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the state by escheat; the proceeds of all gifts and donations to the state for common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual fund for the maintenance of the common schools of the state. It shall be deemed a trust fund, the principle of which shall forever remain inviolate and may be increased but never diminished. The state shall make good all losses thereof.

§ 154. The interest and income of this fund together with the net proceeds of all fines for violation of state laws, and all other sums which may be added thereto by law shall be faithfully used and applied each year for the benefit of the common schools of the state, and shall be for this purpose apportioned among and between all the several common school corporations of the state in proportion to the number of children in each of school age, as may be fixed by law, and no part of the fund shall ever be diverted



even temporarily, from this purpose, or used for any other purpose whatever than the maintenance of common schools for the equal benefit of all the people of the state; provided, however, that if any portion of the interest or income aforesaid shall be not expended during any year, said portion shall be added to and become a part of the school fund.

§ 155. After one year from the assembling of the first legislative assembly the lands granted to the state from the United States for the support of the common schools may be sold upon the following conditions and no other: No more than one-fourth of all such lands shall be sold within the first five years after the same become saleable by virtue of this section. No more than one-half of the remainder within ten years after the same become saleable as aforesaid. The residue may be sold at any time after the expiration of said ten years. The legislative assembly shall provide for the sale of all school lands subject to the provisions of this article. The coal lands of the state shall never be sold, but the legislative assembly may by general laws provide for leasing the same. The words "coal lands" shall include lands bearing lignite coal.

§ 156. The superintendent of public instruction, governor, attorney general, secretary of state and state auditor shall constitute a board of commissioners, which shall be denominated the "Board of University and School Lands" and, subject to the provisions of this article, and any law that may be passed by the legislative assembly, said board shall have control of the appraisement, sale, rental and disposal of all school and university lands, and shall direct the investment of the funds arising therefrom in the hands of the state treasurer, under the limitations in section 160 of this article.

§ 157. The county superintendent of common schools, the chairman of the county board and the county auditor shall constitute boards of appraisal, and under the authority of the state board of university and school lands shall appraise all school lands within their respective counties which they may from time to time recommend for sale at their actual value under the prescribed terms, and shall first select and designate for sale the most valuable lands.

§ 158. No land shall be sold for less than the appraised value and in no case for less than \$10 per acre. The purchaser shall pay one-fifth of the price in cash and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years, with interest at the rate of not less than six

per centum, payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate, and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one-quarter section, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be reappraised before they are sold. No grant or patent for any such lands shall issue until payment is made for the same; provided, that the lands contracted to be sold by the state shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale of such lands shall become null and void.

Note—This section amended by amendments adopted in 1908 and 1912.

§ 159. All land, money or other property donated, granted or received from the United States or any other source for a university, school of mines, reform school, agricultural college, deaf and dumb asylum, normal school or other educational or charitable institution or purpose, and the proceeds of all such lands and other property so received from any source, shall be and remain perpetual funds, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and applied to the specific objects of the original grants or gifts. The principal of every such fund may be increased but shall never be diminished, and the interest and income only shall be used. Every such fund shall be deemed a trust fund held by the state, and the state shall make good all losses thereof.

§ 160. All lands mentioned in the preceding section shall be appraised and sold in the same manner and under the same limitations and subject to all the conditions as to price and sale as provided above for the appraisal and sale of lands for the benefit of common schools; but a distinct and separate account shall be kept by the proper officers of each of said funds; provided, that the limitations as to the time in which school land may be sold shall apply only to lands granted for the support of common schools.

§ 161. The legislative assembly shall have authority to provide by law for the leasing of lands granted to the state for educational and charitable purposes; but no such law



shall authorize the leasing of said lands for a longer period than five years. Said lands shall only be leased for pasturage and meadow purposes and at a public auction after notice as heretofore provided in case of sale; provided, that all of said school lands now under cultivation may be leased, at the discretion and under the control of the board of university and school lands, for other than pasturage and meadow purposes until sold. All rents shall be paid in advance.

§ 162. The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations within the state, bonds of the United States, bonds of the State of North Dakota, or in first mortgages on farm lands in the state, not exceeding in amount one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisers of school lands.

Note—This section amended by Article 8, amendments to the constitution, also by Article 9, adopted 1908.

§ 163. No law shall ever be passed by the legislative assembly granting to any person, corporation or association any privileges by reason of the occupation, cultivation or improvement of any public lands by said person, corporation or association subsequent to the survey thereof by the general government. No claim for the occupation, cultivation or improvement of any public lands shall ever be recognized, nor shall such occupation, cultivation or improvement of any public lands ever be used to diminish either directly or indirectly, the purchase price of said lands.

§ 164. The legislative assembly shall have authority to provide by law for the sale or disposal of all public lands that have been heretofore, or may hereafter be granted by the United States to the state for purposes other than set forth and named in sections 153 and 159 of this article. And the legislative assembly, in providing for the appraisalment, sale, rental and disposal of the same, shall not be subject to the provisions and limitations of this article.

§ 165. The legislative assembly shall pass suitable laws for the safe keeping transfer and disbursement of the state school funds; and shall require all officers charged with the same or the safe keeping thereof to give ample bonds for all moneys and funds received by them, and if any of said officers shall convert to his own use in any manner or form, or shall loan with or without interest or shall deposit in his own name, or otherwise than in the name of the state of North Dakota, or shall deposit in any banks or with any



person or persons, or exchange for other funds or property any portion of the school funds aforesaid or purposely allow any portion of the same to remain in his own hands uninvested, except in the manner prescribed by law, every such act shall constitute an embezzlement of so much of the aforesaid school funds as shall be thus taken or loaned, or deposited, or exchanged, or withheld, and shall be a felony; and any failure to pay over, produce or account for, the state school funds or any part of the same entrusted to any such officer, as by law required or demanded, shall be held and be taken to be prima facie evidence of such embezzlement.

#### ARTICLE X.—COUNTY AND TOWNSHIP ORGANIZATION.

§ 166. The several counties in the territory of Dakota lying north of the seventh standard parallel as they now exist, are hereby declared to be counties of the state of North Dakota.

§ 167. The legislative assembly shall provide by general law for organizing new counties, locating the county seats thereof temporarily, and changing county lines, but no new county shall be organized, nor shall any organized county be so reduced as to include an area of less than twenty-four congressional townships, and containing a population of less than one thousand bona fide inhabitants. And in the organization of new counties and in changing the lines of organized counties and boundaries of congressional townships, the natural boundaries shall be observed as nearly as may be.

§ 168. All changes in the boundaries of organized counties before taking effect shall be submitted to the electors of the county or counties to be affected thereby at a general election and be adopted by a majority of all the legal votes cast in each county at such election; and in case any portion of an organized county is stricken off and added to another the county to which such portion is added shall assume and be holden for an equitable proportion of the indebtedness of the county so reduced.

§ 169. The legislative assembly shall provide by general law, for changing county seats in organized counties, but it shall have no power to remove the county seat of any organized county.

§ 170. The legislative assembly shall provide by general law for township organization, under which any county may organize, whenever a majority of all the legal voters

of such county, voting at a general election, shall so determine, and whenever any county shall adopt township organization, so much of this constitution as provides for the management of the fiscal concerns of said county by the board of county commissioners, may be dispensed with by a majority vote of the people voting at any general election; and the affairs of said county may be transacted by the chairmen of the several township boards of said county, and such others as may be provided by law for incorporated cities, towns or villages within such county.

§ 171. In any county that shall have adopted a system of government by the chairmen of the several township boards, the question of continuing the same may be submitted to the electors of such county at a general election in such a manner as may be provided by law, and if a majority of all the votes cast upon such question shall be against said system of government, then such system shall cease in said county, and the affairs of said county shall then be transacted by a board of county commissioners as is now provided by the laws of the territory of Dakota.

§ 172. Until the system of county government by the chairmen of the several township boards is adopted by any county the fiscal affairs of said county shall be transacted by a board of county commissioners. Said board shall consist of not less than three and not more than five members, whose terms of office shall be prescribed by law. Said board shall hold sessions for the transaction of county business as shall be provided by law.

§ 173. At the first general election held after the adoption of this constitution, and every two years thereafter, there shall be elected in each organized county in the state, a county judge, clerk of court, register of deeds, county auditor, treasurer, sheriff and state's attorney, who shall be electors of the county in which they are elected, and who shall hold their office until their successors are elected and qualified. The legislative assembly shall provide by law for such other county, township and district officers as may be deemed necessary, and shall prescribe the duties and compensation of all county, township and district officers. The sheriff and treasurer of any county shall not hold their respective offices for more than four years in succession.

#### ARTICLE XI.—REVENUE AND TAXATION.

§ 174. The legislative assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed in any one year four (4) mils on the

the dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt.

§ 175. No tax shall be levied except in pursuance of law, and every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied.

§ 176. Laws shall be passed taxing by uniform rule all property according to its true value in money, but the property of the United States and the state, county and municipal corporations, both real and personal, shall be exempt from taxation, and the legislative assembly shall by a general law exempt from taxation property used exclusively for school, religious, cemetery or charitable purposes and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation; but the legislative assembly may, by law, provide for the payment of a per centum of gross earnings of railroad companies to be paid in lieu of all state, county, township and school taxes on property exclusively used in and about the prosecution of the business of such companies as common carriers, but no real estate of said corporations shall be exempted from taxation, in the same manner, and on the same basis as other real estate is taxed, except road-bed, right of way, shops and buildings used exclusively in their business as common carriers, and whenever and so long as such law providing for the payment of a per centum on earnings shall be in force, that part of section 179 of this article relating to assessment of railroad property shall cease to be in force.

Note—Addenda to section 176, adopted in 1905.

§ 177. All improvements on land shall be assessed in accordance with section 179, but plowing shall not be considered as an improvement or add to the value of land for the purpose of assessment.

§ 178. The power of taxation shall never be surrendered or suspended by any grant or contract to which the state or any county or other municipal corporation shall be a party.

§ 179. All property, except as hereinafter in this section provided, shall be assessed in the county, city, township, town, village or district in which it is situated, in the manner prescribed by law. The franchise, roadway, road-bed, rails and rolling stock of all railroads operated in this state shall be assessed by the state board of equalization at their actual value and such assessed valuation shall be appor-



tioned to the counties, cities, towns, townships and districts in which said roads are located, as basis for taxation of such property in proportion to the number of miles of railway laid in such counties, cities, town, townships and districts.

Note—This section amended by Article 4, amendments to the constitution.

§ 180. The legislative assembly may provide for the levy, collection and disposition of an annual poll tax of not more than one dollar and fifty cents on every male inhabitant of this state over twenty-one and under fifty years of age, except paupers, idiots, insane persons and Indians not taxed.

§ 181. The legislative assembly shall pass all laws necessary to carry out the provisions of this article.

#### ARTICLE XII.—PUBLIC DEBT AND PUBLIC WORKS.

§ 182. The state may, to meet casual deficits or failure in the revenue or in case of extraordinary emergencies contract debts, but such debts shall never in the aggregate exceed the sum of \$200,000, exclusive of what may be the debt of North Dakota at the time of the adoption of this constitution. Every such debt shall be authorized by law for certain purposes to be definitely mentioned therein, and every such law shall provide for levying an annual tax sufficient to pay the interest semi-annually, and the principal within thirty years from the passage of such law, and shall specially appropriate the proceeds of such tax to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax discontinued until such debt, both principal and interest, shall have been fully paid. No debt in excess of the limit named shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the state in time of war, or to provide for public defense in case of threatened hostilities; but the issuing of new bonds to refund existing indebtedness, shall not be construed to be any part or portion of said \$200,000.

§ 183. The debt of any county, township, city, town, school district or any other political subdivision, shall never exceed five per centum upon the assessed value of the taxable property therein; provided, that any incorporated city may by a two-thirds vote, increase such indebtedness three per centum on such assessed value beyond said five per cent limit. In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount of existing indebtedness, whether contracted prior or subsequent to the adop-

tion of this constitution shall be included; provided, further, that any incorporated city may become indebted in any amount not exceeding four per centum on such assessed value, without regard to the existing indebtedness of such city, for the purpose of constructing or purchasing water works for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purpose whatever. All bonds or obligations in excess of the amount of indebtedness permitted by this constitution, given by any city, county, township, town, school district or any other political subdivision, shall be void.

§ 184. Any city, county, township, town, school district or any other political subdivision incurring indebtedness shall at or before the time of so doing, provide for the collection of an annual tax sufficient to pay the interest and also the principal thereof when due, and all laws or ordinances providing for the payment of the interest or principal of any debt shall be irrevocable until such debt be paid.

§ 185. Neither the state, nor any county, city, township, town, school district or any other political subdivision shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor shall the state engage in any work of internal improvement unless authorized by a two-thirds vote of the people.

§ 186. No money shall be paid out of the state treasury except upon appropriation by law and on warrant drawn by the proper officer, and no bills, claims, accounts or demands against the state or any county or other political subdivision, shall be audited, allowed or paid until a full, itemized statement in writing shall be filed with the officer or officers whose duty it may be to audit the same.

§ 187. No bond or evidence of indebtedness of the state shall be valid unless the same shall have endorsed thereon a certificate signed by the auditor and secretary of state, showing that the bond or evidence of debt is issued pursuant to law and is within the debt limit. No bond or evidence of debt of any county, or bond of any township or other political subdivision shall be valid unless the same have endorsed thereon a certificate signed by the county auditor, or other officer authorized by law to sign such certificate, stating that said bond, or evidence of debt is issued pursuant to law and is within the debt limit.

## ARTICLE XIII.—MILITIA.

§ 188. The militia of this state shall consist of all able bodied male persons residing in the state, between the ages of eighteen and forty-five years, except such as may be exempted by the laws of the United States or of this state. Persons whose religious tenets or conscientious scruples forbid them to bear arms shall not be compelled to do so in times of peace, but shall pay an equivalent for a personal service.

§ 189. The militia shall be enrolled, organized, uniformed, armed disciplined in such a manner as shall be provided by law, not incompatible with the constitution or laws of the United States.

§ 190. The legislative assembly shall provide by law for the establishment of volunteer organizations of the several arms of the service which shall be classed as active militia; and no other organized body of armed men shall be permitted to perform military duty in this state except the army of the United States, without the proclamation of the governor of the state.

§ 191. All militia officers shall be appointed or elected in such a manner as the legislative assembly shall provide.

§ 192. The commissioned officers of the militia shall be commissioned by the governor, and no commissioned officer shall be removed from office except by sentence of court martial, pursuant to law.

§ 193. The militia forces shall in all cases, except treason, felony or breach of the peace, be privileged from arrest during their attendance at musters, parades and elections of officers, and in going to and returning from the same.

## ARTICLE XIV.—IMPEACHMENT AND REMOVAL FROM OFFICE.

§ 194. The house of representatives shall have the sole power of impeachment. The concurrence of a majority of all members elected shall be necessary to an impeachment.

§ 195. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be upon oath or affirmation to do justice according to the law and evidence. No person shall be convicted without the concurrence of two-thirds of the members elected. When the governor or lieutenant governor is on trial the presiding judge of the supreme court shall preside.



§ 196. The governor and other state and judicial officers except county judges, justices of the peace and police magistrates, shall be liable to impeachment for habitual drunkenness, crimes, corrupt conduct, or malfeasance, or misdemeanor in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of trust or profit under the state. The person accused, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

§ 197. All officers not liable to impeachment, shall be subject to removal for misconduct, malfeasance, crime or misdemeanor in office, or for habitual drunkenness or gross incompetency in such manner as may be provided by law.

§ 198. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

§ 199. On trial of impeachment against the governor, the lieutenant governor shall not act as a member of the court.

§ 200. No person shall be tried on impeachment before he shall have been served with a copy thereof, at least twenty days previous to the day set for trial.

§ 201. No person shall be liable to impeachment twice for the same offense.

#### ARTICLE XV.—FUTURE AMENDMENTS.

§ 202. Any amendment or amendments to this constitution may be proposed in either house of the legislative assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on the journal of the house with the yeas and nays taken thereon, and referred to the legislative assembly to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the legislative assembly so next chosen as aforesaid such proposed amendment or amendments, shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislative assembly to submit such proposed amendment or amendments to the people in such manner and at such time as the legislative assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the legislative

assembly voting thereon, such amendment or amendments shall become a part of the constitution of this state. If two or more amendments shall be submitted at the same time they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

#### ARTICLE XVI.—COMPACT WITH THE UNITED STATES.

§ 203. The following article shall be irrevocable without the consent of the United States and the people of this state:

First. Perfect toleration of religious sentiment shall be secured, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship.

Second. The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated public lands lying within the boundaries thereof, and to all lands lying within said limits owned or held by any Indian or Indian tribes, and that until the title thereto shall have been extinguished by the United States, the same shall be and remain subject to the disposition of the United States, and that said Indian lands shall remain under the absolute jurisdiction and control of the congress of the United States; that the lands belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands belonging to residents of this state; that no taxes shall be imposed by this state on lands or property therein, belonging to, or which may hereafter be purchased by the United States or reserved for its use. But nothing in this article shall preclude this state from taxing as other lands are taxed, any lands owned or held by any Indian who has severed his tribal relations, and has obtained from the United States or from any person, a title thereto, by patent or other grant save and except such lands as have been or may be granted to any Indian or Indians under any acts of congress containing a provision exempting the lands thus granted from taxation, which last mentioned lands shall be exempt from taxation so long, and to such extent, as is, or may be provided in the act of congress granting the same.

Third. In order that payment of the debts and liabilities contracted or incurred by and on behalf of the territory of Dakota may be justly and equitably provided for and made, and in pursuance of the requirements of an act of congress approved February 22, 1889, entitled, "An act to provide for

the division of Dakota into two states and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and other state governments and to be admitted into the union on an equal footing with the original states and to make donations of public lands to such states," the state of North Dakota and South Dakota by proceedings of a joint commission, duly appointed under said act, the sessions whereof were held at Bismarck, in said state of North Dakota, from July 16, 1889, to July 31, 1889, inclusive, have agreed to the following adjustment of the amounts of the debts and liabilities of the territory of Dakota, which shall be assumed and paid by each of the states of North Dakota and South Dakota, respectively to-wit:

This agreement shall take effect and be in force from and after the admission into the union as one of the United States of America, of either the state of North Dakota or the state of South Dakota."

The words "State of North Dakota," wherever used in this agreement, shall be taken to mean the territory of North Dakota in case the State of South Dakota shall be admitted into the union prior to the admission into the union of the state of North Dakota; and the words "State of South Dakota," wherever used in this agreement, shall be taken to mean the territory of South Dakota in case the state of North Dakota shall be admitted into the union prior to the admission into the union of the state of South Dakota.

The said state of North Dakota shall assume and pay all bonds issued by the territory of Dakota to provide funds for the purchase, construction, repairs, or maintenance of such public institutions, grounds or buildings as are located within the boundaries of North Dakota, and shall pay all warrants issued under and by virtue of that certain act of the legislative assembly of the territory of Dakota, approved March 8, 1889, entitled, "An act to provide for the refunding of outstanding warrants drawn on the capitol building fund."

The state of South Dakota shall assume and pay all bonds issued by the territory of Dakota to provide funds for the purchase, construction, repairs or maintenance of such public institutions, grounds or buildings as are located within the boundaries of South Dakota.

That is to say: The state of North Dakota shall assume and pay the following bonds and indebtedness, to-wit:

Bonds issued on account of the hospital for insane at Jamestown, North Dakota, the face aggregate of which is \$266,000; also bonds issued on account of the North Dakota



university at Grand Forks, North Dakota, the face aggregate of which is \$96,700; also bonds issued on account of the penitentiary at Bismarck, North Dakota, the face aggregate of which is \$93,600; also, refunding capitol building warrants dated April 1, 1889, \$83,507.46.

And the state of South Dakota shall assume and pay the following bonds and indebtedness, towit:

Bonds issued on account of the hospital for the insane at Yankton, South Dakota, the face aggregate of which is \$210,000; also bonds issued on account of the school for deaf mutes at Sioux Falls, South Dakota, the face aggregate of which is \$51,000; also bonds issued on account of the university at Vermillion, South Dakota, the face aggregate of which is \$75,000; also, bonds issued on account of the penitentiary at Sioux Falls, South Dakota, the face aggregate of which is \$94,300; also, bonds issued on account of the agricultural college at Brookings, South Dakota, the face aggregate of which is \$97,500; also, bonds issued on account of the normal school at Madison, South Dakota, the face aggregate of which is \$49,400.00; also bonds issued on account of the school of mines at Rapid City, South Dakota, the face aggregate of which is \$33,000; also bonds issued on account of the reform school at Plankinton, South Dakota, the face aggregate of which is \$30,000; also, bonds issued on account of the normal school at Spearfish, South Dakota, the face aggregate of which is \$25,000; also, bonds issued on account of the soldiers' home at Hot Springs, South Dakota, the face aggregate of which is \$45,000.

The states of North Dakota and South Dakota shall pay one-half each of all liabilities now existing or hereafter and prior to the taking effect of this agreement incurred, except those heretofore or hereafter incurred on account of public institutions, grounds or buildings, except as otherwise herein specifically provided.

The State of South Dakota shall pay to the State of North Dakota \$46,500, on account of the excess of territorial appropriations for the permanent improvement of territorial institutions which under this agreement will go to South Dakota, and in full of the undivided one-half interest of North Dakota in the territorial library, and in full settlement of unbalanced accounts, and of all claims against the territory of whatever nature, legal or equitable, arising out of the alleged erroneous or unlawful taxation of Northern Pacific railroad lands, and the payment of said amount shall discharge and exempt the state of North Dakota from all liability for or on account of the several matters hereinbefore referred to; nor shall either state be called upon to

pay or answer to any portion of liability hereafter arising or accruing on account of transactions heretofore had, which liability would be a liability of the territory of Dakota had such territory remained in existence, and which liability shall grow out of matters connected with any public institutions, grounds or buildings of the territory situated or located within the boundaries of the other state.

A final adjustment of accounts shall be made upon the following basis: North Dakota shall be charged with all sums paid on account of the public institutions, grounds or buildings located within its boundaries on account of the current appropriations since March 9, 1889; and South Dakota shall be charged with all sums paid on account of public institutions, grounds, or buildings located within its boundaries on the same account and during the same time. Each state shall be charged with one-half of all other expenses of the territorial government during the same time. All moneys paid into the treasury during the period from March 8, 1889, to the time of taking effect of this agreement by any county, municipality or person within the limits of the proposed state of North Dakota, shall be credited to the state of North Dakota, and all sums paid into said treasury within the same time by any county, municipality or person within the limits of the proposed state of South Dakota shall be credited to the state of South Dakota, except that any and all taxes on gross earnings paid into said treasury by railroad corporations, since the 8th day of March, 1889, based upon earnings of years prior to 1888, under and by virtue of the act of the legislative assembly of the territory of Dakota, approved March 7, 1889, and entitled, "An act providing for the levy and collection of taxes upon property of railroad companies in this territory," being chapter 107 of the session laws of 1889 (that is, the part of such sums going to the territory), shall be equally divided between the states of North Dakota and South Dakota, and all taxes heretofore or hereafter paid into said treasury under and by virtue of the act last mentioned, based upon the gross earnings of the year 1888, shall be distributed as already provided by law, except that so much thereof as goes to the territorial treasury shall be divided as follows: North Dakota shall have so much thereof as shall be or has been paid by railroads within the limits of the proposed state of North Dakota, and South Dakota so much thereof as shall be or has been paid by railroads within the limits of the proposed state of South Dakota; each state shall be accredited also with all balances of appropriations made by the seventeenth legislative assembly of the territory of Dakota for the account of the public institutions, grounds



or buildings situated within its limits remaining unexpended on March 8, 1889. If there shall be any indebtedness except the indebtedness represented by the bonds and refunding warrants hereinbefore mentioned, each state shall, at the time of such final adjustment of accounts, assume its share of said indebtedness as determined by the amount paid on account of the public institutions, grounds or buildings of such state in excess of the receipts from counties, municipalities, railroad corporations or persons within the limits of said state as provided in this article, and if there should be a surplus at the time of such final adjustment, each state shall be entitled to the amounts received from counties, municipalities, railroad corporations or persons within its limits over and above the amount charged it. And the state of North Dakota hereby obligates itself to pay such part of the debts and liabilities of the territory of Dakota as is declared by the foregoing agreement to be its proportion thereof, the same as if such proportion had been originally created by said state of North Dakota as its own debt or liability.

§ 204. Jurisdiction is ceded to the United States over the military reservations of Fort Abraham Lincoln, Fort Buford, Fort Pembina and Fort Totten, heretofore declared by the president of the United States; provided, legal process, civil and criminal, of this state, shall extend over such reservations in all cases in which exclusive jurisdiction is not vested in the United States, or of crimes not committed within the limits of such reservations.

§ 205. The state of North Dakota hereby accepts the several grants of land granted by the United States to the state of North Dakota by an act of congress, entitled, "An act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments, and to be admitted into the union on equal footing with the original states, and to make donations of public lands to such states," under the conditions and limitations therein mentioned; reserving the right, however, to apply to congress for modification of said conditions and limitations in case of necessity.

#### ARTICLE XVII.—MISCELLANEOUS.

§ 206. The name of this state shall be "North Dakota." The state of North Dakota shall consist of all the territory included within the following boundary, to wit: Commencing at a point in the main channel of the Red River of the North, where the forty-ninth degree of north latitude crosses



the same; thence south up the main channel of the same and along the boundary line of the state of Minnesota to a point where the seventh standard parallel intersects the same; thence west along said seventh standard parallel produced due west to a point where it intersects the twenty-seventh meridian of longitude west from Washington; thence north on said meridian to a point where it intersects the forty-ninth degree of north latitude; thence east along said line to place of beginning.

§ 207. The following described seal is hereby declared to be and hereby constituted the great seal of the state of North Dakota, to wit: "A tree in the open field, the trunk of which is surrounded by three bundles of wheat; on the right plow, anvil and sledge; on the left, a bow crossed with three arrows, and an Indian on horseback pursuing a buffalo toward the setting sun; the foliage of the tree arched by a half circle of forty-two stars, surrounded by the motto, "Liberty and Union Now and Forever, One and Inseparable;" the words "Great Seal" at the top, the words "State of North Dakota" at the bottom; "October 1st" on the left, and "1889" on the right. The seal to be two and one-half inches in diameter.

§ 208. The right of the debtor to enjoy the comforts and necessities of life shall be recognized by wholesome laws exempting from forced sale to all heads of families a homestead, the value of which shall be limited and defined by law; and a reasonable amount of personal property; the kind and value shall be fixed by law. This section shall not be construed to prevent liens against the homestead for labor done and materials furnished in the improvement thereof, in such manner as may be prescribed by law.

§ 209. The labor of children under twelve years of age shall be prohibited in mines, factories and workshops in this state.

§ 210. All flowing streams and natural water courses shall forever remain the property of the state for mining, irrigating and manufacturing purposes.

§ 211. Members of the legislative assembly and judicial departments, except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: "I do solmenly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the state of North Dakota; and that I will faithfully discharge the duties of the office of ..... according to the best of my

ability, so help me God" (if an oath), (under pain and penalty of perjury, if an affirmation), and no other oath, declaration or test shall be required as a qualification for any office or public trust.

§ 212. The exchange of "black lists" between corporations shall be prohibited.

§ 213. The real and personal property of any woman in this state, acquired before marriage, and all property to which she may after marriage become in any manner rightfully entitled, shall be her separate property and shall not be liable for the debts of her husband.

#### ARTICLE XVIII.—CONGRESSIONAL AND LEGISLATIVE APPORTIONMENT.

§ 214. Until otherwise provided by law, the member of the house of representatives of the United States apportioned to this state shall be elected at large.

Until otherwise provided by law the senatorial and representative districts shall be formed and the senators and representatives shall be apportioned as follows:

The first district shall consist of the townships of Wallhalla, St. Joseph, Neche, Pembina, Bathgate, Carlisle, Joliet, Midland, Lincoln and Drayton, in the county of Pembina, and be entitled to one senator and two representatives.

The second district shall consist of the townships of St. Thomas, Hamilton, Cavalier, Akra, Beauleau, Thingvalla, Gardar, Park, Crystal, Elora and Lodema, in the county of Pembina, and be entitled to one senator and two representatives.

The third district shall consist of the townships of Perth, Latona, Adams, Silvester, Cleveland, Morton, Vesta, Tiber, Medford, Vernon, Golden, Lampton, Eden, Rushford, Kensington, Dundee, Ops, Prairie Center, Fertile, Park River and Gleenwood in the county of Walsh, and be entitled to one senator and two representatives.

The fourth district shall consist of the townships of Forest River, Walsh Center, Grafton, Farmington, Ardoch, village of Ardoch, Harrison, city of Grafton, Oakwood, Martin, Walshville, Pulaski, Acton, Minto and St. Andrews, in the county of Walsh, and be entitled to one senator and three representatives.

The fifth district shall consist of the townships of Gilby, Johnstown, Strabane, Wheatfield, Hegton, Arvilla, Avon, Northwood, Lind, Grace, Larimore and the city of Larimore, Elm Grove, Agnes, Inkster, Elkmount, Oakwood,



Niagara, Moraine, Logan and Loretta, in the county of Grand Forks, and be entitled to one senator and two representatives.

The sixth district shall consist of the Third, Fourth, Fifth and Sixth wards of the city of Grand Forks, as now constituted, and the townships of Falconer, Harvey, Turtle River, Ferry, Rye, Blooming, Meckinock, Lakeville and Levant, in the county of Grand Forks, and be entitled to one senator and two representatives.

The seventh district shall consist of the First and Second wards of the city of Grand Forks, as now constituted, and the townships of Grand Forks, Brenna, Oakville, Chester, Pleasant View, Fairfield, Allendale, Walle, Bentru, Americus, Michigan, Union and Washington; in the county of Grand Forks, and be entitled to one senator and two representatives.

The eighth district shall consist of the county of Traill and be entitled to one senator and four representatives.

The ninth district shall consist of the township of Fargo and the city of Fargo, in the county of Cass, and the fractional township number 139 in range 48, and be entitled to one senator and two representatives.

The tenth district shall consist of the townships of Noble, Wisner, Harwood, Reed, Barnes, Stanley, Pleasant, Kenyon, Gardner, Berlin, Raymond, Mapleton, Warren, Norman, Elm River, Harmony, Durbin, Adison, Davenport, Casselton, in the county of Cass, and be entitled to one senator and three representatives.

The eleventh district shall consist of the townships of Webster, Rush River, Hunter, Arthur, Amenia, Everest, Maple River, Leonard, Dows, Erie, Empire, Wheatland, Gill, Walberg, Watson, Page, Rich, Ayr, Buffaol, Howes, Eldred, Highland, Rochester, Lake, Cornell, Tower, Hill, Clifton and Pontiac, in the county of Cass, and be entitled to one senator and three representatives.

The twelfth district shall consist of the county of Richland, and be entitled to one senator and three representatives.

The thirteenth district shall consist of the county of Sargent, and be entitled to one senator and two representatives.

The fourteenth district shall consist of the county of Ransom, and be entitled to one senator and two representatives.

The fifteenth district shall consist of the county of Barnes, and be entitled to one senator and two representatives.

The sixteenth district shall consist of the counties of Steele and Griggs, and be entitled to one senator and two representatives.



The seventeenth district shall consist of the county of Nelson, and be entitled to one senator and one representative.

The eighteenth district shall consist of the county of Cavalier, and be entitled to one senator and two representatives.

The nineteenth district shall consist of the counties of Towner and Rolette, and be entitled to one senator and one representative.

The twentieth district shall consist of the counties of Benson and Pierce, and be entitled to one senator and two representatives.

The twenty-first district shall consist of the county of Ramsey, and be entitled to one senator and two representatives.

The twenty-second district shall consist of the counties of Eddy, Foster and Wells, and be entitled to one senator and two representatives.

The twenty-third district shall consist of the county of Stutsman, and be entitled to one senator and two representatives.

The twenty-fourth district shall consist of the county of LaMoure, and be entitled to one senator and one representative.

The twenty-fifth district shall consist of the county of Dickey, and be entitled to one senator and two representatives.

The twenty-sixth district shall consist of the counties of Emmons, McIntosh, Logan and Kidder, and be entitled to one senator and two representatives.

The twenty-seventh district shall consist of the county of Burleigh, and be entitled to one senator and two representatives.

The twenty-eighth district shall consist of the counties of Bottineau and McHenry, and be entitled to one senator and one representative.

The twenty-ninth district shall consist of the counties of Ward, McLean, and all the unorganized counties lying north of the Missouri river, and be entitled to one senator and one representative.

The thirtieth district shall consist of the counties of Morton and Oliver, and be entitled to one senator and two representatives.

The thirty-first district shall consist of the counties of Mercer, Stark and Billings and all the unorganized counties

lying south of the Missouri river, and be entitled to one senator and one representative.

Note—Apportionment changed by law of 1901, law of 1907, law of 1909 and law of 1911.

#### ARTICLE XIX.—PUBLIC INSTITUTIONS.

§ 215. The following public institutions of the state are permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States, in the act of congress approved February 22, 1889, to be disposed of and used in such manner as the legislative assembly may prescribe, subject to the limitations provided in the article on school and public lands contained in this constitution.

First. The seat of government at the city of Bismarck, in the county of Burleigh.

Second. The state university and the school of mines at the city of Grand Forks, in the county of Grand Forks.

Third. The agricultural college at the city of Fargo, in the county of Cass.

Fourth. A state normal school at the city of Valley City, in the county of Barnes; and the legislative assembly in apportioning the grant of eighty thousand acres of land for normal schools made in the act of congress referred to shall grant to the said normal school at Valley City, as aforementioned, fifty thousand (50,000) acres, and said lands are hereby appropriated to said institution for that purpose.

Fifth. The deaf and dumb asylum at the city of Devils Lake, in the county of Ramsey.

Note—See amendments, Article 3.

Sixth. A state reform school at the city of Mandan, in the county of Morton.

Seventh. A state normal school at the city of Mayville, in the county of Traill, and the legislative assembly in apportioning the grant of lands made by congress in the act aforesaid, for state normal schools, shall assign thirty thousand (30,000) acres to the institution hereby located at Mayville, and said lands are hereby appropriated for said purpose.

Eighth. A state hospital for the insane and institution for the feeble minded in connection therewith, at the city of Jamestown, in the county of Stutsman. And the legislative assembly shall appropriate twenty thousand acres of the

grant of lands made by the act of congress aforesaid for "other educational and charitable institutions" to the benefit and for the endowment of said institution.

Note—See amendments, Article 4.

§ 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "other educational and charitable institutions," as is allotted by law, viz:

First. A soldier's home, when located, or such other charitable institution as the legislative assembly may determine, at Lisbon, in the county of Ransom, with a grant of forty thousand acres of land.

Second. A blind asylum or such other institution as the legislative assembly may determine, at such place in the county of Pembina as the qualified electors of said county may determine at an election to be held as prescribed by the legislative assembly, with a grant of thirty thousand acres.

Third. An industrial school and school for manual training, or such other educational or charitable institution as the legislative assembly may provide, at the town of Ellendale, in the county of Dickey, with a grant of forty thousand acres.

Fourth. A school of forestry, or such other institution as the legislative assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the legislative assembly.

Fifth. A scientific school, or such other educational or charitable institution as the legislative assembly may prescribe, at the city of Wahpeton, county of Richland, with a grant of forty thousand acres; provided, that no other institution of a character similar to any one of those located by this article shall be established or maintained without a revision of this constitution.

Note—This section amended by Articles 6 and 12, amendments to the constitution.

## ARTICLE XX.—PROHIBITION.

§ 217. No person, association or corporation shall within this state, manufacture for sale or gift, any intoxicating



liquors, and no person, association or corporation shall import any of the same for sale or gift, or keep or sell or offer the same for sale, or gift, barter or trade as a beverage. The legislative assembly shall by law prescribe regulations for the enforcement of the provisions of this article and shall thereby provide suitable penalties for the violation thereof.

#### SCHEDULE.

§ 1. That no inconvenience may arise from a change of territorial government to state government, it is declared that all writs, actions, prosecutions, claims and rights of individuals and bodies corporate shall continue as if no change of government had taken place, and all processes which may, before the organization of the judicial department under this constitution, be issued under the authority of the territory of Dakota, shall be as valid as if issued in the name of the state.

§ 2. All laws now in force in the territory of Dakota, which are not repugnant to this constitution, shall remain in force until they expire by their own limitations or be altered or repealed.

§ 3. All fines, penalties, forfeitures and escheats accruing to the territory of Dakota shall accrue to the use of the states of North Dakota and South Dakota and may be sued for and recovered by either of said states as necessity may require.

§ 4. All recognizances, bonds, obligations or other undertakings, heretofore taken, or which may be taken before the organization of the judicial department under this constitution, shall remain valid, and shall pass over to, and may be prosecuted in the name of the state; all bonds, obligations or other undertakings executed to this territory, or to any officer in his official capacity, shall pass over to the proper state authority, and to their successors in office, for the use therein respectively expressed, and may be sued for and recovered accordingly; all criminal prosecutions and penal actions, which have arisen or may arise before the organization of the judicial department, under this constitution, or which shall then be pending, may be prosecuted to judgment and execution in the name of the state.

§ 5. All property real and personal, and credits, claims and choses in action belonging to the territory of Dakota at the time of the adoption of this constitution, shall be vested in and become the property of the states of North Dakota and South Dakota.

§ 6. Whenever any two of the judges of the supreme court of the state, elected under the provisions of this constitution, shall have qualified in their offices, the causes then pending in the supreme court of the territory on appeal or writ of error from the district courts of any county or subdivision within the limits of this state, and the papers, records and proceedings of said court shall pass into the jurisdiction and possession of the supreme court of the state, except as otherwise provided in the enabling act of congress, and until so superseded the supreme court of the territory and judges thereof shall continue, with like powers and jurisdiction as if this constitution had not been adopted. Whenever the judge of the district court of any district elected under the provisions of this constitution shall have qualified in this office, the several causes then pending in the district court of the territory within any county in such district, and the records, papers and proceedings of said district court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the district court of the state for such county, except as provided in the enabling act of congress, and until the district courts of this territory shall be superseded in the manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and power to be exercised in the same judicial districts respectively as heretofore constituted under the laws of the territory.

§ 7. Until otherwise provided by law, the seals now in use in the supreme and district courts of this territory are hereby declared to be the seals of the supreme and district courts respectively of the state.

§ 8. Whenever this constitution shall go into effect, the books, records and papers and proceedings of the probate court in each county, and all causes and matters of administration and other matters pending therein, shall pass into the jurisdiction and possession of the county court of the same county, and the said county court shall proceed to final decree or judgment, order or other determination in the said several matters and causes as the said probate court might have done if this constitution had not been adopted. And until the election and qualification of the judges of the county courts provided for in this constitution, the probate judges shall act as the judges of the county courts within their respective counties, and the seal of the probate court in each county shall be the seal of the county court therein until the said court shall have procured a proper seal.



§ 9. The terms "probate court" or "probate judge," whenever occurring in the statutes of the territory, shall after this constitution goes into effect, be held to apply to the county court or county judge.

§ 10. All territorial, county and precinct officers, who may be in office at the time this constitution takes effect, whether holding their offices under the authority of the United States or of the territory, shall hold and exercise their respective offices, and perform the duties thereof as prescribed in this constitution, until their successors shall be elected and qualified in accordance with the provisions of this constitution, and official bonds of all such officers shall continue in full force and effect as though this constitution had not been adopted; and such officers for their term of service, under this constitution, shall receive the same salaries and compensation as is by this constitution or by the laws of the territory, provided for like officers; provided, that the county and precinct officers shall hold their office for the term for which they were elected. There shall be elected in each organized county in this state, at the election to be held for the ratification of this constitution, a clerk of the district court, who shall hold his office under said election until his successor is duly elected and qualified. The judges of the district court shall have power to appoint state's attorneys in any organized counties where no such attorneys have been elected, which appointment shall continue until the general election to be held in 1890, and until his successor is elected and qualified.

§ 11. This constitution shall take effect and be in full force immediately upon the admission of the territory as a state.

§ 12. Immediately upon the adjournment of this convention the governor of the territory, or, in case of his absence, or failure to act, the secretary of the territory, or in case of his absence or failure to act, the president of the constitutional convention shall issue a proclamation, which shall be published and copy thereof mailed to the chairman of the board of county commissioners of each county, calling an election by the people on the first Tuesday in October, 1889, of all the state and district officers created and made elective by this constitution. This constitution shall be submitted for adoption or rejection at said election to a vote of the electors qualified by the laws of this territory to vote at all elections. At the election provided for herein the qualified voters shall vote directly for or against this constitution and for or against the article separately submitted.



§ 13. The board of commissioners of the several counties shall thereupon order such election for said day, and shall cause notice thereof to be given for the period of twenty days, in the manner provided by law. Every qualified elector of the territory, at the date of said election, shall be entitled to vote thereat. Such election shall be conducted in all respects in the same manner as provided by the laws of the territory for general elections, and the returns for all state and district officers, and members of the legislative assembly, shall be made to the canvassing board hereinafter provided for.

§ 14. The governor, secretary and chief justice, or a majority of them, shall constitute a board of canvassers to canvass the vote of such election for all state and district officers and members of the legislative assembly. The said board shall assemble at the seat of government of the territory on the fifteenth day after the day of such election (or on the following day if such day falls on Sunday), and proceed to canvass the votes on the adoption of this constitution and for all state and district officers and members of the legislative assembly in the manner provided by the laws of the territory for canvassing the vote for delegate to congress, and they shall issue certificates of election, to the persons found to be elected to said offices severally, and shall make and file with the secretary of the territory an abstract certified by them, of the number of votes cast for or against the adoption of the constitution, and for each person for each of said offices, and of the total number of votes cast in each county.

§ 15. All officers elected at such election shall, within sixty days after the date of the executive proclamation admitting the State of North Dakota into the union, take the oath required by this constitution, and give the same bond required by the law of the territory to be given in case of like officers of the territory and districts, and shall thereupon, enter upon the duties of their respective offices, but the legislative assembly may require by law all such officers to give other or further bonds as a condition of their continuance in office.

§ 16. The judges of the district court who shall be elected at the election herein provided for shall hold their offices until the first Monday in January, 1893, and until their successors are elected and qualified. All other state officers, except judges of the supreme court, who shall be elected at the election herein provided for, shall hold their offices until the first Monday in January, 1891, and until their successors are elected and qualified. Until otherwise provided by

law, the judges of the supreme court shall receive for their services the salary of four thousand dollars per annum, payable quarterly; and the district judges shall receive for their services the salary of three thousand dollars per annum, payable quarterly.

§ 17. The governor-elect of the state immediately upon his qualifying and entering upon the duties of his office shall issue his proclamation convening the legislative assembly of the state at the seat of government on a day to be named in said proclamation, and which shall not be less than fifteen nor more than forty days after the date of such proclamation. And said legislative assembly after organizing shall proceed to elect two senators of the United States for the State of North Dakota; and at said election the two persons who shall receive a majority of all the votes cast by the said senators and representatives shall be elected such United States senator. And the presiding officers of the senate and house of representatives shall each certify the election to the governor and secretary of the State of North Dakota; and the governor and secretary of state shall certify the election of such senators as provided by law.

§ 18. At the election herein provided for there shall be elected a representative to the fifty-first congress of the United States, by the electors of the state at large.

§ 19. It is hereby made the duty of the legislative assembly at its first session to provide for the payment of all debts and indebtedness authorized to be incurred by the constitutional convention of North Dakota, which shall remain unpaid after the appropriation made by congress for the same shall have been exhausted.

§ 20. There shall be submitted to the same election at which this constitution is submitted for rejection or adoption, article 20, entitled "Prohibition," and persons who desire to vote for said article shall have written or printed on their ballots "For Prohibition," and all persons desiring to vote against said article shall have written or printed on their ballots "Against Prohibition." If it shall appear according to the returns herein provided for that a majority of all votes cast at said election for and against prohibition are for prohibition, then said article 20 shall be and form a part of this constitution and be in full force and effect as such from the date of the admission of this state into the union. But if a majority of said votes shall appear according to said returns to be against prohibition then said article 20 shall be null and void and shall not be a part of this constitution.



§ 21. The agreement made by the joint commission of the constitutional conventions of North Dakota and South Dakota concerning the records, books and archives of the Territory of Dakota is hereby ratified and confirmed: which agreement is in the words following: That is to say:

The following books, records and archives of the Territory of Dakota shall be the property of North Dakota, to-wit: All records, books and archives in the offices of the governor and secretary of the territory (except records of articles of incorporation of domestic corporations, returns of election of delegates to the constitutional convention of 1889 for South Dakota, returns of elections held under the so-called local option law, in counties within the limits of South Dakota, bonds of notaries public appointed for counties within the limits of South Dakota, papers relating to the organization of counties situate within the limits of South Dakota, all which records and archives are a part of the records and archives of said secretary's office: excepting, also census returns from counties situate within the limits of South Dakota and papers relating to requisitions issued upon the application of officers of counties situate within the limits of South Dakota, all of which are a part of the records and archives of said governor's office.)

And the following records, books and archives shall also be the property of the State of North Dakota, to-wit: Vouchers in the office or custody of the auditor of this territory relating to expenditures on account of public institutions, grounds or buildings situate within the limits of North Dakota. One warrant register in the office of the treasury of this territory—being a record of warrants issued under and by virtue of chapter 24 of the laws enacted by the eighteenth legislative assembly of Dakota Territory. All letters, receipts and vouchers in the same office now filed by counties and pertaining to counties within the limits of North Dakota. Paid and cancelled coupons in the same office representing interest on bonds which said state of North Dakota is to assume and pay. Reports of gross earnings of the year 1888 in the same office, made by corporations operating lines or railroad situated wholly or mainly within the limits of North Dakota. Records and papers of the office of the public examiner of the second district of the territory. Records and papers of the office of the district board of agriculture. Records and papers in the office of the board of pharmacy of the District of North Dakota.

All records, books and archives of the Territory of Dakota which it is not herein agreed shall be the property of North Dakota, shall be the property of South Dakota.



The following books shall be copied and the copies shall be the property of North Dakota, and the cost of such copies shall be borne equally by said states of North Dakota and South Dakota. That is to say:

Appropriation ledger for years ending November 1899-90—  
—one volume.

The auditor's current warrant register—one volume.

Insurance record for 1889—one volume.

Treasurer's cash book—"D."

Assessment ledger—"B."

Dakota Territory bond register—one volume.

Treasurer's current ledger—one volume.

The originals of the foregoing volumes which are to be copied shall at any time after such copying shall have been completed be delivered on demand to the proper authorities of the State of South Dakota.

All other records, books and archives, which it is hereby agreed shall be the property of South Dakota, shall remain at the capitol of North Dakota until demanded by the legislature of the State of South Dakota, and until the State of North Dakota shall have had a reasonable time after such demand is made to provide copies or abstracts of such portions thereof as the said State of North Dakota may desire to have copies or abstracts of.

The State of South Dakota may also provide copies or abstracts of such records, books and archives, which it is agreed shall be the property of North Dakota, as said State of South Dakota shall desire to have copies or abstracts of. The expenses of all copies or abstracts of records, books, and archives which it is herein agreed may be made, shall be borne equally by said two states.

§ 22. Should the counties containing lands which form a part of the grant of lands made by congress to the Northern Pacific railroad company, be compelled by law to refund moneys paid for such lands or any of them by purchasers thereof at tax sales thereof, based upon taxes illegally levied upon said lands, then and in that case the State of North Dakota shall appropriate the sum of twenty-five thousand dollars (\$25,000) or so much thereof as may be necessary to reimburse said counties for the amount so received from said illegal tax sales and paid by said counties into the treasury of Dakota Territory.

§ 23. This constitution shall after its enrollment be signed by the president of this convention and the chief clerk thereof, and such delegates as desire to sign the same, whereupon it shall be deposited in the office of the secretary

of the territory, where it may be signed at any time by any delegate who shall be prevented from signing the same for any reason at the time of the adjournment of this convention.

§ 24. In case the territorial officers of the Territory of Dakota, or any of them who are now required by law to report to the governor of the territory, annually or biennially, shall prepare and publish such reports covering the transactions of their offices up to the time of the admission of the State of North Dakota into the union, the legislative assembly shall make sufficient appropriations to pay one-half of the cost of such publication.

§ 25. The governor and secretary of the territory are hereby authorized to make arrangements for the meeting of the first legislative assembly, and the inauguration of the state government.

§ 26. The legislative assembly shall provide for the editing and for the publication in an independent volume, of this constitution, as soon as it shall take effect, and whenever it shall be altered or amended, and shall cause to be published in the same volume the declaration of independence, the constitution of the United States and the enabling act.

Done at Bismarck, Dakota, in open convention, this 17th day of August, A. D. 1889.

F. B. FANCHER,  
President.

JOHN G. HAMILTON,  
Chief Clerk.

## AMENDMENTS TO CONSTITUTION.

## ARTICLE I.

The legislative assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets.

## ARTICLE II.

§ 121. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the state one year and in the county six months, and in the precinct ninety days next preceding any election, shall be a qualified elector at such election.

First—Citizens of the United States.

Second—Civilized persons of Indian descent, who shall have severed their tribal relations two years next preceding such election.

§ 127. No person who is under guardianship, non compos mentis or insane, shall be qualified to vote at any election; nor any person convicted of treason or felony unless restored to civil rights; and the legislature shall by law establish an educational test as a qualification, and may prescribe penalties for failing, neglecting or refusing to vote at any general election.

## ARTICLE III.

§ 76. The governor shall have power in conjunction with the board of pardons, of which the governor shall be ex-officio a member and the other members of which shall consist of the attorney general of the State of North Dakota, the chief justice of the supreme court of the state of North Dakota and two qualified electors who shall be appointed by the governor to remit fines and forfeitures, to grant reprieves, commutations and pardons after conviction for all offenses except treason and cases of impeachment; but the legislative assembly may by law regulate the manner in which the remission of fines, pardons, commutations and reprieves may be applied for.



Upon conviction of treason the governor shall have the power to suspend the execution of sentence until the case shall be reported to the legislative assembly at its next regular session, when the legislative assembly shall either pardon or commute the sentence, direct the execution of the sentence or grant further reprieve. The governor shall communicate to the legislative assembly at each regular session each case of remission of fine, reprieve, commutation or pardon granted by the board of pardons, stating the name of the convict, the crime for which he is convicted, the sentence and its date and the date of remission, commutation, pardon or reprieve, with their reasons for granting the same.

#### ARTICLE IV.

§ 179. All property, except as hereinafter in this section provided, shall be assessed in the county, city, township, village or district in which it is situated, in the manner prescribed by law. The franchise, roadway, roadbed, rails and rolling stock of all railroads, and the franchise and all other property of all express companies, freight line companies, car equipment companies, sleeping car companies, dining car companies, telegraph or telephone companies, or corporations operated in this state and used directly or indirectly in the carrying of persons, or messages shall be assessed by the state board of equalization at their actual value, and such assessed value shall be apportioned to the counties, cities, towns, villages, townships and districts in which such railroad companies, express companies, sleeping car companies, dining car companies, telegraph and telephone companies are located, or through which they are operated, as a basis for the taxation of such property, in proportion to the number of miles of such property, within such counties, cities, towns, villages, townships and districts, or over which any part of such property is used or operated within such counties, towns, villages, townships and districts. But should any railroad allow any portion of its roadway to be used for any purpose other than the operation of a railroad thereon, such portion of its roadway, while so used, shall be assessed in the manner provided for the assessment of other real property.

#### ARTICLE V.

Subdivision 5 of section 215.

Fifth. The school for the deaf and dumb of North Dakota, at the City of Devils Lake, in the County of Ramsey.

## ARTICLE VI.

Subdivision 8, of section 215.

Eighth. A state hospital for the insane at the City of Jamestown, in the County of Stutsman. And the legislative assembly shall appropriate twenty thousand acres of the grant of lands made by the act of congress aforesaid for, "other educational and charitable institutions," to the benefit and for the endowment of said institution, and there shall be located at or near the City of Grafton, in the County of Walsh, an institution for the feeble minded, on the grounds purchased by the secretary of the interior for a penitentiary building.

## ARTICLE VII.

Addenda to section 176:

The legislative assembly may further provide that grain grown within the state and held therein in elevators, warehouses and granaries may be taxed at a fixed rate.

## ARTICLE VIII.

The moneys of the permanent school fund and other educational funds shall be invested only in bonds of school corporations or of counties, or of townships, or of municipalities within the state, bonds issued for the construction of drains under authority of law within the state, bonds of the United States, bonds of the State of North Dakota, bonds of other states; provided, such states have never repudiated any of their indebtedness, or on first mortgages on farm lands in this state, not exceeding in amount, one-third of the actual value of any subdivision on which the same may be loaned, such value to be determined by the board of appraisal of school lands.

## ARTICLE IX.

§ 158. Minimum Price of State Lands. No lands shall be sold for less than the appraised value and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows: One-fifth in five years, one-fifth in ten years, one-fifth in fifteen years and one-fifth in twenty years, with interest at the rate of not less than six per centum, payable annually in advance. All sales shall be held at the county seat of the county in which the land to be sold is situate, and shall be at public auction and to the highest bidder, after

sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the lands to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one-quarter section, and those so subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal, shall be reappraised before they are sold. No grant or patent for any such lands shall issue until payment is made for the same; provided, that the lands contracted to be sold by the state shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contracts of sale of such lands shall, at the election of the board of university and school lands, become null and void; and no such contract heretofore made shall be held void for nonpayment of taxes accruing on the lands described therein; provide !, such taxes shall have been paid before this amendment takes effect; provided, further, that any school or institution land that may be required for townsite purposes may be paid for at any time and patent issued therefor.

## ARTICLE X.

§ 89. The supreme court shall consist of five judges, a majority of whom shall be necessary to form a quorum or pronounce a decision; but one or more of said judges may adjourn the court from day to day or to a day certain.

## ARTICLE XI.

§ 158. No land shall be sold for less than the appraised value, and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash and the remaining fourth-fifths as follows: One-fifth in five years, one-fifth on or before the expiration of ten years, one-fifth on or before the expiration of fifteen years, and one-fifth on or before the expiration of twenty years, with interest payable at the rate of not less than five per cent per annum payable annually in advance; provided, that when payments are made before due they shall be made at an interest paying date, and one year's interest in advance shall be paid on all moneys so paid. All sales shall be held at the county seat of the county in which the land to be sold is situated, and be at public auction and to the highest bidder after sixty days advertisement of the same in a newspaper in general circulation in the vicinity of the land to be sold, and also published in a



newspaper published at the county seat, and also in a newspaper published at the seat of government. Such lands as shall not have been especially subdivided shall be offered in tracts of one-quarter section, and those subdivided in the smallest subdivision. All lands designated for sale and not sold within two years after appraisal shall be re-appraised before they are sold. No grant or patent for such lands shall issue until payment is made for the same; provided, that the lands contracted to be sold by the state shall be subject to taxation from the date of such contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then and thereupon the contract of sale for such lands shall, if the board of university and school lands so determine, become null and void. Any lands under the provisions of section 158 of the constitution of the State of North Dakota that have heretofore been sold may be paid for, except as to interest, as provided herein; provided, further, that any school or institution lands that may be required for township purposes, may be paid for at any time and patent issued therefor.

## ARTICLE XII.

§ 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "other educational and charitable institutions" as is allotted by law, namely:

First. A soldiers' home, when located, or such other charitable institution as the legislative assembly may determine, at Lisbon, in the County of Ransom, with a grant of forty thousand acres of land.

Second. A blind asylum, or such other institution as the legislative assembly may determine, at such place in the County of Pembina as the qualified electors of the said county may determine at an election to be held as prescribed by the legislative assembly, with a grant of thirty thousand acres.

Third. An industrial school and school for manual training, or such other educational or charitable institutions as the legislative assembly may provide, at the town of Ellettsdale, in the County of Dickey, with a grant of forty thousand acres.

Fourth. A school of forestry, or such other institution as the legislative assembly may determine, at such place in

one of the counties of McHenry, Ward, Bottineau or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the legislative assembly.

Fifth. A scientific school, or such other educational or charitable institution as the legislative assembly may prescribe, at the City of Wahpeton, County of Richland, with a grant of forty thousand acres.

Sixth. A state normal school at the City of Minot, in the County of Ward; provided that no other institution of a character similar to any one of those located by this article, shall be established or maintained without a revision of this constitution.

### ARTICLE XIII.

§ 158. No land shall be sold for less than the appraised value, and in no case for less than ten dollars per acre. The purchaser shall pay one-fifth of the price in cash, and the remaining four-fifths as follows:

One-fifth in five years, one-fifth on or before the expiration of ten years, one-fifth on or before the expiration of fifteen years, and one-fifth on or before the expiration of twenty years, with interest at the rate of not less than five per cent per annum, payable annually in advance; provided, that when payments are made before due they shall be made at an interest paying date, and one year's interest in advance shall be paid on all moneys so paid. All sales shall be held at the county seat of the county in which the land to be sold is situated, and shall be at public auction and to the highest bidder, after sixty days' advertisement of the same in a newspaper of general circulation in the vicinity of the land to be sold, and one at the seat of government. Such lands as shall not have been specially subdivided shall be offered in tracts of one-quarter section, and those subdivided in the smallest subdivisions. All lands designated for sale and not sold within two years after appraisal shall be re-appraised before they are sold. No grant or patent for such lands shall issue until payment is made for the same; provided that the land contracted to be sold by the state shall be subject to taxation from the date of contract. In case the taxes assessed against any of said lands for any year remain unpaid until the first Monday in October of the following year, then thereupon the contract of sale for such lands shall, if the board of university and school lands so determine, become null and void. Any lands under the provisions of section 158 of the constitution of the State of North

Dakota that have heretofore been sold, may be paid for, except as to interest, as provided, further, that any school or institution lands that may be required for townsite purposes, school house sites, church sites, cemetery sites, sites for other educational or charitable institutions, public parks, fair grounds, public highways, railroad right of way, or for other railroad uses and purposes, reservoirs for the storage of water for irrigation, drain ditches or irrigation ditches, and lands that may be required for any of the purposes over which the right of eminent domain may be exercised under the constitution and the laws of the State of North Dakota, may be sold under the provisions of this section, and shall be paid for, principal and interest, in full in advance, at the time of sale, or at any time thereafter, and patent issued therefor, when principal and interest are paid.

#### ARTICLE XIV.

The legislative assembly is hereby authorized and empowered to provide by law for the erection, purchasing or leasing and operation of one or more terminal grain elevators in the States of Minnesota or Wisconsin, or both, to be maintained and operated in such manner as the legislative assembly shall prescribe, and provide for inspection, weighing and grading of all grain received in such elevator or elevators.



## PROPOSED CONSTITUTIONAL AMENDMENTS.

Passed by the Twelfth and Thirteenth Legislative Assemblies, to be Voted on at the Next General Election.

Initiative and Referendum—Legislative.

Chap. 93 (S. B. No. 5—Bessessen) 1911 Session Laws.

Chap. 101 (S. B. No. 32—Overson) 1913 Session Laws.

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A CONCURRENT RESOLUTION for an Amendment to the Constitution Providing for the Initiative and Referendum.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That the following amendment to the constitution of the State of North Dakota, providing for the initiative and referendum shall be referred to the next legislative assembly to be chosen at the next general election in said state, and with the approval of said legislative assembly to be submitted to the qualified electors for adoption or rejection, in accordance with the provisions of section 202 of the constitution of the state of North Dakota.

AMENDMENT.] Section 25 of Article 2 of the constitution of the state of North Dakota is hereby amended to read as follows:

§ 25. The legislative authority of the state of North Dakota shall be vested in a legislative assembly consisting of a senate and house of representatives, but the people reserve to themselves power to propose laws and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power, at their own option, to approve or reject at the polls, any act, item, section or part of any act or measure passed by the legislative assembly. The first power reserved by the people is the initiative, or the power to propose measures for enactment into laws, and at least ten per cent of the legal voters to be secured in a majority of the counties of the state shall be required to propose any measure by initiative petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state

not less than thirty days before any regular session of the legislative assembly; he shall transmit the same to the legislative assembly as soon as it convenes. Such initiative measure shall take precedence over all other measures in the legislative assembly except appropriation bills, and shall be either enacted or rejected without change or amendment by the legislative assembly within forty days. If any such initiative measure shall be enacted by the legislative assembly it shall be subject to referendum petition, or it may be referred by the legislative assembly to the people for approval or rejection. If it is rejected or no action is taken upon it by the legislative assembly within said forty days, the secretary of state shall submit it to the people for approval or rejection at the next ensuing regular general election. The legislative assembly may reject any measure so proposed by initiative petition and propose a different one to accomplish the same purpose, and in any such event both measures shall be submitted by the secretary of state to the people for approval or rejection at the next ensuing regular election. If conflicting measures submitted to the people at the next ensuing election shall be approved by a majority of the votes severally cast for and against the same, the one receiving the highest number of affirmative votes shall thereby become valid, and the other shall thereby be rejected. The second power is the referendum, or the power to order any act, item, or part of any act to be referred to the people for their approval or rejection at the polls, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health or safety), as to any measure or any parts, items or sections of any measures passed by the legislative assembly either by a petition signed by ten per cent of the legal voters of the state from a majority of the counties, or by the legislative assembly, if a majority of the members elect vote therefor. When it is necessary for the immediate preservation of the public peace, health or safety that a law shall become effective without delay, such necessity and the facts creating the same shall be stated in one section of the bill, and if upon aye and no vote in each house two-thirds of all the members elected to each house shall vote on a separate roll call in favor of the said law going into instant operation for the immediate preservation of the public peace, health or safety, such law shall become operative upon approval by the governor.

The filing of a referendum petition against one or more items, sections or parts of an act shall not delay the remainder of that act from becoming operative. Referendum petitions against measures passed by the legislative assembly

shall be filed with the secretary of state not more than ninety days after the final adjournment of the session of the legislative assembly which passed the measure on which the referendum is demanded. The veto power of the governor shall not extend to measures referred to the people. All elections on measures referred to the people of the state shall be had at biennial regular elections, except as provision may be made by law for a special election or elections. Any measure referred to the people shall take effect when it is approved by a majority of the votes cast thereon and not otherwise, and shall be in force from the date of the official declaration of the vote.

The enacting clause of all the initiative bills shall be, "Be it enacted by the people of the state of North Dakota." This section shall not be construed to deprive any member of the legislative assembly of the right to introduce any measure. The whole number of votes for secretary of state at the regular election last preceding the filing of any petition for the initiative or for the referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted.

Petitions and orders for the initiative and for the referendum shall be filed with the secretary of state, and in submitting the same to the people he and all other officers shall be guided by the general laws and the act submitting this amendment until legislation shall be specially provided therefor.

This amendment shall be self executing, but legislation may be enacted to facilitate its operation.

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#### Initiative and Referendum—Constitution.

Chap. 89 (S. B. 153—Gibbens) 1911 Session Laws.

Chap. 98 (S. B. 73—Gibbens) 1913 Session Laws.

A CONCURRENT RESOLUTION Amending the Constitution of State of North Dakota, Providing for the Future Amendment Thereof.

*Be it Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

§ 1. That the following proposed amendment to section 202 of article 15 of the constitution of the State of North Dakota, be referred to the legislative assembly to be chosen at the next general election in the State of North Dakota, to be, if approved, by said last mentioned legislative assembly, submitted to the qualified electors of the state for ap-



proval or rejection in accordance with the provisions of section 202 of the constitution of the State of North Dakota.

AMENDMENT.] Article 15, section 202, of the constitution of the State of North Dakota is amended so as to read as follows:

§ 202. This constitution may be amended so as to read as follows:

First: Any amendment or amendments to this constitution may be proposed in either house of the legislative assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on the journal of the house with the yeas and nays taken thereon, and referred to the legislative assembly to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice, and if in the legislative assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all members elected to each house, then it shall be the duty of the legislative assembly to submit such proposed amendment or amendments to the people in such manner and at such times as the legislative assembly shall provide; and if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for members of the legislative assembly voting thereon, such amendment or amendments shall become a part of the constitution of this state. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

Second. Any amendment or amendments to this constitution may also be proposed by the people by the filing with the secretary of state, at least six months previous to a general election, of an initiative petition containing the signatures of at least twenty-five per cent of the legal voters in each of not less than one-half of the counties of the state. When such petition has been properly filed the proposed amendment or amendments shall be published as the legislature may provide, for three months previous to the general election, and shall be placed upon the ballot to be voted upon by the people at the next general election. Should any such amendment or amendments proposed by initiative petition and submitted to the people receive a majority of all the legal votes cast at such general election, such amendment or amendments shall be referred to the next legislative assembly and should such proposed amendment or

amendments be agreed upon by a majority of all the members elected to each house, such amendment or amendments shall become a part of the constitution of this state. Should any amendment or amendments proposed by initiative petition and receiving a majority of all the votes cast at the general election as herein provided, but failing to receive approval by the following legislative assembly to which it has been referred, such amendment or amendments shall again be submitted to the people at the next general election for their approval or rejection as at the previous general election. Should such amendment or amendments receive a majority of all the legal votes cast at such succeeding general election such amendment or amendments at once become a part of the constitution of this state. Any amendment or amendments proposed by initiative petition and failing of adoption as herein provided, shall not be again considered until the expiration of six years.

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### Changing Name of the State Blind Asylum.

Chap. 97 ( H. B. 78—O'Connor) 1911 Session Laws.

Chap. 95 (S. B. 219—Ganssle) 1913 Session Laws.

### A CONCURRENT RESOLUTION.

To Amend Section 216 of the Constitution of the State of North Dakota, Pertaining to Public Institutions.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:*

That the following proposed amendment to the Constitution of the State of North Dakota adopted by the Twelfth Legislative Assembly and by it referred to the Thirteenth Legislative Assembly for approval or rejection, is hereby agreed to and such amendment shall be submitted to the qualified electors of the state at the next general election for approval or rejection in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota:

AMENDMENT.] That Section 216 of the Constitution of the State of North Dakota is amended to read as follows:

The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "Other

Educational and Charitable Institutions," as is allotted by law, viz.:

First. A soldiers' home, when located, or such other charitable institution as the Legislative Assembly may determine, at Lisbon, in the County of Ransom, with a grant of forty thousand acres of land.

Second. The school for the blind of North Dakota, at Bathgate, in the County of Pembina, with a grant of thirty thousand acres.

Third. An industrial school and school for manual training or such other educational or charitable institution as the Legislative Assembly may provide at the town of Ellendale, in the County of Dickey with a grant of forty thousand acres.

Fourth. A school of Forestry, or such other institution as the Legislative Assembly may determine, at the city of Bottineau, in the County of Bottineau.

Fifth. A scientific school, or such other educational or charitable institution as the Legislative Assembly may prescribe, at the City of Wahpeton, County of Richland, with a grant of forty thousand acres.

Sixth. A state normal school at the City of Minot, in the County of Ward; *provided*, that no other institution, of a character similar to any one of those located by this Article, shall be established or maintained without a revision of this Constitution.

Approved March 10, 1913.

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## STATE AID FOR HIGHWAYS

Chap. 91 (S. B. 247—Welo) 1911 Session Laws.

Chap. 100 (S. B. 67—Albrecht) 1913 Session Laws.

### A CONCURRENT RESOLUTION.

Amending Section 185 of the Constitution of the State of North Dakota, Relating to State Aid in the Construction and Improvement of Public Highways.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

The following proposed amendment to the Constitution of the State of North Dakota adopted by the Twelfth Legis-



lative Assembly of the State of North Dakota and by it referred to the Thirteenth Legislative Assembly of said state for approval or rejection, is hereby agreed to, and such amendment shall be submitted to the qualified electors of the state at the next general election for approval or rejection in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota.

AMENDMENT TO CONSTITUTION.] That Section 185 of Article 12 of the Constitution of the State of North Dakota is hereby amended to read as follows:

§ 185. Neither the state nor any county, city, township, town, school district or any other political sub-division shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor, nor subscribe to or become the owner of the capital stock of any association or corporation, nor shall the state engage in any work or internal improvement unless authorized by a two-third vote of the people. *Provided*, that the state may appropriate money in the treasury or to be thereafter raised by taxation for the construction or improvement of public highways.

Approved February 27, 1913.

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## TERMINAL ELEVATORS WITHIN THE STATE

Chap. 90 (S. B. 229—Plain) 1911 Session Laws.

Chap. 104 (S. B. 110—Plain) 1913 Session Laws.

A CONCURRENT RESOLUTION Amending the Constitution of the State of North Dakota, Empowering the Legislative Assembly to Provide by Law for Erection, Leasing, Purchasing and Operating Terminal Elevators in the State of North Dakota.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That the following proposed amendment to the Constitution of the State of North Dakota adopted by the Twelfth Legislative Assembly of the State of North Dakota, and by it referred to the Thirteenth Legislative Assembly of said state for approval or rejection, is hereby agreed to and such amendment shall be submitted to the qualified electors of the state at the next general election for approval or rejection in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota.

AMENDMENT.] The Legislative Assembly is hereby authorized and empowered to provide by law for the erection, purchase or leasing and operation of one or more terminal grain elevators in the State of North Dakota, to be maintained and operated in such manner as the Legislative Assembly shall prescribe, and provide for inspection, weighing and grading of all grain received in such elevator or elevators.

Approved March 10, 1913.

## PROPOSED CONSTITUTIONAL AMENDMENTS

Proposed Constitutional Amendments Passed by the Thirteenth Legislative Assembly and to be Submitted to the Fourteenth Legislative Assembly.

### CHAPTER 96.

(S. B. No. 259—McBride.)

#### A CONCURRENT RESOLUTION.

Amending Section 216 of the Constitution of the State of North Dakota, Establishing and Locating a State Normal School in the City of Dickinson, County of Stark.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That the following proposed amendment to Section 216 of the Constitution of the State of North Dakota, be referred to the Legislative Assembly to be chosen at the next general election in said state to be by said last mentioned Legislative Assembly submitted to the qualified electors of the state for approval or rejection in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota.

AMENDMENT.] That Section 216 of the Constitution of the State of North Dakota be amended to read as follows:

§ 216. The following named public institutions are hereby permanently located as hereinafter provided, each to have so much of the remaining grant of one hundred and seventy thousand acres of land made by the United States for "other educational and charitable institutions" as is allotted by law, namely:

First: A soldiers' home, when located, or such other charitable institution as the Legislative Assembly may de-

termine at Lisbon, in the County of Ransom, with a grant of forty thousand acres of land.

Second: A blind asylum, or such other institution as the Legislative Assembly may determine, at such place in the County of Pembina as the qualified electors of said county may determine at an election to be held as prescribed by the Legislative Assembly, with a grant of thirty thousand acres.

Third: An industrial school and school for manual training or such other educational or charitable institution as the Legislative Assembly may provide, at the town of Ellendale, in the County of Dickey with a grant of forty thousand acres.

Fourth: A school of forestry, or such other institution as the Legislative Assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau or Rolette, as the electors of said counties may determine by an election for that purpose, to be held as provided by the Legislative Assembly.

Fifth: A scientific school or such other educational or charitable institution as the Legislative Assembly may prescribe, at the City of Wahpeton, County of Richland, with a grant of forty thousand acres.

Sixth: A state normal school at the City of Minot, in the County of Ward.

Seventh: (a) A state normal school at the City of Dickinson, in the County of Stark.

*Provided*, that no other institution of a character similar to any one of those located by this Article shall be established or maintained without a revision of this constitution.

Approved March 10, 1913.

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## CHAPTER 97.

(S. B. No. 157—Bronson.)

### A CONCURRENT RESOLUTION.

For an Amendment to the Constitution Providing for the Elective Franchise.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Therein Concurring:*

That the following amendment to the Constitution of the State of North Dakota be referred to the Legislative Assem-



bly to be chosen at the next general election, be published, and upon agreement, by the Legislature so chosen next, as aforesaid to be submitted to the people at the general election in the year 1916 for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota:

Section 121 of Article 5 of the Constitution of North Dakota, as amended by Article 2 of the Amendments to the said Constitution, shall be and is hereby amended and re-enacted to read as follows::

§ 121. Every person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the state one year and in the county three months and in the precinct sixty days next preceding any election, shall be a qualified elector at such election.

First: Citizens of the United States.

Second: Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election.

Approved March 10, 1913.

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(S. B. No. 319—Committee on State Affairs.)

### A CONCURRENT RESOLUTION

Amending the Constitution of the State of North Dakota  
Providing for the Establishment and Location of a State  
Hospital for the Insane.

*Be It Resolved by the Senate of the State of North Dakota,  
the House of Representatives Concurring:*

The following proposed amendment to Section 216, Article 19 of the Constitution of the State of North Dakota is referred to the Legislative Assembly to be chosen at the next general election in said state, to be by such last mentioned Legislative Assembly submitted to the qualified electors of this state for approval or rejection in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota.

AMENDMENT.] Section 216 of the Constitution of the State of North Dakota is amended to read as follows:

§ 216. The following named public institutions are hereby permanently located as hereinafter provided, each

to have so much of the remaining grant of one hundred and seventy thousand (170,000) acres of land made by the United States for "other educational and charitable institutions" as is allotted by law, namely;

First: A soldiers' home, when located, or such other charitable institution as the Legislative Assembly may determine, at Lisbon, in the County of Ransom, with a grant of forty (40,000) acres of land.

Second: A blind asylum, or such other institution as the Legislative Assembly may determine at such place in the County of Pembina as the qualified electors of said county may determine, at an election to be held as prescribed by the Legislative Assembly, with a grant of thirty thousand (30,000) acres.

Third: An industrial school and school for manual training, or such other educational or charitable institution as the Legislative Assembly may provide, at the town of Ellendale, in the County of Dickey, with a grant of forty thousand (40,000) acres.

Fourth: A School of Forestry, or such other institution as the Legislative Assembly may determine, at such place in one of the counties of McHenry, Ward, Bottineau and Rolette, as the electors of the said counties may determine by an election for that purpose, to be held as provided by the Legislative Assembly.

Fifth: A Scientific School, or such other educational or charitable institution as the Legislative Assembly may prescribe at the City of Wahpeton, County of Richland, with a grant of forty thousand (40,000) acres.

Sixth: A state normal school at the City of Minot, in the County of Ward.

Seventh: (B) A state hospital for the insane at such place within this state as shall be selected by the Legislative Assembly; *provided*, that no other institution of a character similar to any one of those located by this Article shall be established or maintained without a revision of this Constitution.

Approved March 10, 1913.

(S. B. No. 370—Hanley.)

A CONCURRENT RESOLUTION.

Amending the Constitution of the State of North Dakota, Changing the Name of the State Reform School Located at Mandan, in the County of Morton, to that of State Farm and Mechanic Art School.

*Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring:*

That the following proposed amendment to Section 215 of the Constitution of the State of North Dakota be referred to the Legislative Assembly to be chosen at the next general election in said state to be by said last mentioned Legislative Assembly submitted to the qualified electors of the state for approval or rejection in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota.

AMENDMENT.] Article 19, Section 215 of the Constituion of the State of North Dakota is amended so as to read as follows:

§ 215. The following public institutions of the state are permanently located at the places hereinafter named, each to have the lands specifically granted to it by the United States in the Act of Congress approved February 22, 1889, to be disposed of and used in such manner as the Legislative Assembly may prescribe subject to the limitations provided in the Article on school and public lands contained in this Constitution.

First: The seat of government at the City of Bismarck, in the County of Burleigh.

Second: The State University and the School of Mines at the City of Grand Forks, in the County of Grand Forks.

Third: The Agricultural College at the City of Fargo, in the County of Cass.

Fourth: A State Normal School at the City of Valley City, in the County of Barnes, and the Legislative Assembly in apportioning the grant of eighty thousand acres of land for normal school made in the act of Congress referred to shall grant to the said normal school at Valley City, as aforementioned, fifty thousand (50,000) acres, and said lands are hereby appropriated to said institution for that purpose.

Fifth: The School for the Deaf and Dumb of North Dakota at the City of Devils Lake, in the County of Ramsey.



Sixth: A State Farm and Mechanic Arts School at the City of Mandan, in the County of Morton.

Seventh: A State Normal School at the City of Mayville, in the County of Traill, and the Legislative Assembly in apportioning the grant of lands made by Congress in the Act aforesaid for state normal schools, shall assign thirty thousand (30,000) acres to the institution hereby located at Mayville, and said lands are hereby appropriated for said purpose.

Eighth: A State Hospital for the Insane at the City of Jamestown, in the County of Stutsman. And the Legislative Assembly shall appropriate twenty thousand acres of the grant of lands made by the Act of Congress aforesaid for other educational and charitable institutions to the benefit and for the endowment of said institution, and there shall be located at or near the City of Grafton, in the County of Walsh, an institution for the feeble minded, on the grounds purchased by the secretary of the interior for a penitentiary building.

Approved March 10, 1913.

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(H. B. No. 116—Norheim.)

### A CONCURRENT RESOLUTION

Amending the Constitution of the State of North Dakota, Relating to Uniformity of Taxation, and Permitting the Classification of Property for the Purpose of Taxation and Relating Further to the Assessment and Taxation of Certain Public Utility Companies.

*Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring:*

The following proposed amendments to Sections 176 and 179, as amended by Article 4 of the Constitution of North Dakota, of Article 11 of the Constitution of North Dakota, adopted by the Twelfth Legislative Assembly, and by it referred to the Thirteenth Legislative Assembly of said state for approval or rejection are hereby agreed to and such amendments shall be submitted to the qualified voters of the state at the next general election for approval or rejection, in accordance with the provisions of Section 202 of the Constitution of the State of North Dakota.

§ 1. AMENDMENT.] Section 176. Taxes shall be uniform upon the same class of property, including franchises with-

in the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only, but the property of the United States, and of the state, county and municipal corporations, shall be exempt from taxation; and the Legislative Assembly shall by a general law exempt from taxation property used exclusively for school, religious, cemetery, charitable or other public purposes, and personal property to any amount not exceeding in value two hundred dollars for each individual liable to taxation; provided that all taxes and exemption in force when this amendment is adopted shall remain in force, in the same manner and to the same extent until otherwise provided by statute.

§ 2. AMENDMENT.] Section 179, as amended by Article 4 of the Constitution of the State of North Dakota, is amended to read as follows:

§ 179. All taxable property except as hereinafter in this Section provided, shall be assessed in the county, city, township, village or district in which it is situated, in the manner prescribed by law. The property including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies car equipment companies, or private car line companies, telegraph or telephone companies or corporations operating in this state and used directly or indirectly in the carrying of persons, property, or messages, shall be assessed by the state board of equalization in a manner prescribed by such state board of commissions as may be provided by law. But should any railroad allow any portion of its railway to be used for any purpose other than the operation of a railroad thereon such portion of its railway, while so used, shall be assessed in the manner provided for the assessment of other real property.

Approved February 26, 1913.

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## GENERAL ELECTION LAWS

§ 603. GENERAL ELECTION, WHEN HELD.] On the first Tuesday after the first Monday in November of each even numbered year an election shall be held in the several election districts of the state which shall be known as the general election, and the several state, district and county officers, judges of the supreme and district courts, members of the legislative assembly and members of the congress of the United States, shall be elected at the general

election next preceding the expiration of the term of each of such officers, respectively, except such officers as are required by law to be elected at special elections, and on a year when a president and a vice president of the United States are to be chosen a number of electors of president and vice president of the United States equal to the number of senators and representatives to which this state is entitled in the congress of the United States shall be elected at such election. [R. C. 1899, § 477.]

§ 604. HIGHEST NUMBER OF VOTES ELECTS.] In all elections for the choice of any officer, unless it is otherwise expressly provided, the person receiving the highest number of votes for any office shall be deemed to have been elected to that office. R. C. 1899, § 478.]

§ 605. WHO ENTITLED TO VOTE.] Every person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the state one year and in the county six months, and in the precinct ninety days next preceding any election, shall be a qualified elector at such election:

First: Citizens of the United States.

Second: Civilized persons of Indian descent who shall have severed their tribal relations two years next preceding such election, provided they have complied with the provisions of any law which is now or may in the future be in force relating to the registration of voters, and all persons possessing the qualifications mentioned in this Section, and who have resided in this state one year, shall be eligible to any office in this state, except as otherwise provided in the Constitution.

This Act shall not be in force until adopted by a majority of the electors of the state, voting at the general election to be held in the year 1914, and this Act shall be submitted for adoption to the electors at such general election in 1914. (1913 ch. 151.)

§ 606. QUALIFICATIONS OF INDIAN VOTERS.] No Indian or person of Indian descent who has not received a final patent conveying the title in fee of lands allotted to him within the boundaries of this state, pursuant to an act of the congress of the United States, approved February 8, 1887, and entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the territories over the Indians, and for other purposes," shall be deemed a qualified elector of the state of North Dakota,



or be entitled to the rights and privileges of an elector therein unless he was born within the limits of the United States, and has voluntarily taken up his residence within this state separate and apart from any tribe of Indians therein, and adopted the habits of civilized life, and is in no manner subject to the authority of any Indian chief or council or Indian agent of the United States. [1895, ch. 58, § 1; R. C. 1899, § 480.]

(Unconstitutional in so far as it restricts the right of suffrage. *State ex rel Tompion v. Denoyer, et al*, 6 N. D. 586, 75 N. W. 1014.

#### ARTICLE 4.—ELECTION PRECINCTS.

§ 607. PRECINCTS, HOW FORMED.] The board of county commissioners of each county in the state shall, at its first session after the taking effect of this section, divide its county into election precincts and establish the boundaries of the same, if it has not heretofore done so, and the said board of county commissioners, whenever deemed necessary, shall subdivide any precinct containing two or more congressional townships; providing, that every precinct so established shall comprise at least one congressional township. The entirety of civil townships, cities or villages as voting precincts shall be preserved when possible, except when such preservation would conflict with the provisions of this section. In such case the civil township, city or village, except as hereinafter provided, shall be divided into two or more precincts, but in no case shall a precinct be composed of parts of two civil townships, or part of a township and city or village, excepting as hereinafter provided. Such board of commissioners shall designate one voting place in each precinct. No precinct shall contain more than three hundred electors. If at any election hereafter held, more than three hundred votes shall be cast at any voting place, it shall be the duty of the inspector in such precinct to report such fact to the board of county commissioners, which board shall, at its next regular meeting divide such precinct as nearly as possible, so that the new precincts formed therefrom shall each contain two hundred and fifty electors, as nearly as practicable, provided, that nothing in this section shall be construed as prohibiting townships adjoining or having within their boundaries an incorporated city, town or village, of less than fifteen hundred inhabitants, from holding their election and having their voting place within the corporate limits of such city, town or village; provided, further, that when the combined vote of any township and incorporated city, town or village, or the

combined vote of any township and any portion of any incorporated city, town or village, within its boundaries or within the town lines or section lines which form the boundaries thereof, does not exceed three hundred, such township and incorporated city, town or village, may have but one voting place. [1891, ch. 66. § 7; 1897, ch. 44; R. C. 1895, § 481; 1903, ch. 90.]

#### ARTICLE 5.—ELECTION OFFICERS AND THEIR DUTIES.

§ 608. INSPECTORS AND JUDGES OF ELECTIONS QUALIFICATIONS OF. DUTIES.] The chairman of the board of supervisors in organized townships shall by virtue of his office be inspector of elections. In case the township contains more than three hundred voters, such chairman shall be inspector of elections in the precinct in which he resides, and shall appoint the inspector in all other precincts which are component parts of the township of which he is chairman. In case the township and any incorporated town or village within its limits contain less than three hundred voters and such township or incorporated town or village have but one voting place, the chairman of the township board of supervisors shall be inspector of elections. In all cities in which the aldermen are elected in different years, the senior alderman shall be inspector of elections for the precinct in which he resides; and in cities in which the aldermen are not so elected, the alderman who shall act as inspector of elections shall be determined by lot in such manner as the city council shall prescribe. In case a ward in any city contains more than three hundred votes, the senior alderman or the alderman chosen by lot shall be inspector of elections for the precinct in which he resides, and shall appoint the inspectors in all other precincts which are component parts of the ward of which he is alderman. In incorporated towns and villages the president of the town or village board of trustees shall act as inspector, and, if the town or village contains more than three hundred voters, he shall act as inspector of the precinct in which he resides, and appoint the inspectors in the other precincts. In case the alderman designated or selected to act as inspector in any ward is disqualified from acting, the other alderman of the ward shall act as inspector, and appoint other inspectors when necessary; and in case the president of the board of trustees of any town or village is disqualified, the remaining members of the board shall select one of their number to act as such inspector, and appoint other inspectors when necessary. The inspector shall, prior to the opening of the polls in his precinct, appoint as judges of election two qualified electors of such precinct who shall



have been resident freeholders therein for at least ninety days next preceding such election, and who are members of different political parties and of the parties which cast the highest number of votes at the preceding general election; provided, that if at least one week prior to such election the chairman of the county central committee of either of the two parties that cast the largest number of votes in the state at the last general election, shall nominate a member of such party as judge, having the qualifications above prescribed, presenting a certificate of such nomination signed by such chairman, he shall be appointed by the inspector, and such judges together with the inspector shall constitute the board of elections. No person shall be a member of the board of elections who has anything of value bet or wagered on the result of such election, or who is a candidate or is the father, father-in-law, son, son-in-law, brother or brother-in-law of any candidate at such election. If at any time before or during an election it shall be made to appear to any inspector, by the affidavit of two or more qualified electors of the precinct, that either of the judges is disqualified under the provisions of this section, he shall at once remove such judge and fill the place with a qualified person of the same political party as the judge removed, and in case such person so disqualified shall have taken the oath of office as prescribed by law, the inspector shall place such oath and affidavit before the state's attorney of the county; provided, that in case such inspector is disqualified from acting, the other two members of the board of township supervisors and the clerk shall, at least ten days before the date of holding the election, hold a meeting for the purpose of filling such vacancy. Such vacancy shall be filled by appointing an inspector who shall belong to the same political party as the disqualified inspector, and the name of the inspector so appointed shall at once be reported to the county auditor by such clerk. [1893, ch. 60, § 5; 1897, ch. 78; R. C. 1895, § 483.]

§ 609. INSPECTORS OF ELECTION IN UNORGANIZED TOWNSHIPS, HOW APPOINTED.] In precincts consisting of unorganized townships the board of county commissioners shall at the July session of such board next preceding an election appoint in each precinct, as inspector of such election, some qualified elector of such precinct. Such inspector shall before the time of opening the polls in his precinct appoint two judges of election as provided in the preceding section and such judges and inspector shall constitute the board of election for that precinct. If any member of the board of election shall fail to appear at the hour appointed for the opening of the polls the remainder of the board shall select



a member of his political party to serve in his stead; provided, that if the qualified electors of his party present at the polls shall nominate a qualified person for such vacancy, such nominee shall be appointed. If none of the members of the election board shall appear at the hour appointed for opening the polls the qualified electors present shall elect a board viva voce as nearly as possible in conformity with the provisions hereof. [1891, ch. 66, § 16b; R. C. 1895, § 484.]

§ 610. POLL CLERKS.] Such board of election shall appoint as poll clerks two qualified electors of the precinct, one from each of the two parties that cast the largest vote at the last state general election. [1891, ch. 66, § 16c; R. C. 1899, § 485.]

§ 611. OATH OF ELECTION OFFICERS.] Previous to the votes being taken the inspectors, judges and clerks of election shall severally take and subscribe an oath in the following form: "I, A. B., do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge or clerk (as the case may be) according to law and the best of my ability; and that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same." Such oath may be taken before any officer authorized to administer oaths, and in case no such officer is present at the opening of the polls the inspector or judges of election are authorized to administer such oath to each other and to the clerks of election and the person administering such oaths shall cause an entry thereof to be made and subscribed by him and prefixed to the poll book. [R. C. 1899, § 486.]

§ 612. POLL LIST, CLERK TO KEEP.] Each clerk of election shall keep a poll list which shall contain in numerical order the names of all the persons voting at such election. [R. C. 1899, § 487.]

§ 613. DUTY OF INSPECTOR AND JUDGE TO CHALLENGE.] If any inspector or judge of election shall know or have reason to believe that any person offering to vote is not a qualified elector it shall be his duty to challenge the right of such person to vote. [R. C. 1895, § 488.]

#### ARTICLE 6.—ELECTION SUPPLIES.

§ 614. BALLOTS TO BE PRINTED AND DISTRIBUTED AT PUBLIC EXPENSE.] At all general or special elections for state, district, county, city, township, village or other public officers within the state, including elections in cities, towns and vil-

lages in incorporated by special act, all ballots cast shall be printed and distributed at public expense, as hereinafter provided. The printing of ballots and cards of instruction for the electors in each county and the delivery of the same to the election officers as hereinafter provided shall be a county charge and for municipalities a municipal charge, the payment of which shall be provided for in the same manner as other county and municipal expenses; provided, that the provisions of this chapter shall not apply to elections for civil township or school district officers, nor to elections in incorporated cities and villages having less than three hundred legal voters as evidenced by the vote cast therein at the last preceding city or village election. [1891, ch. 66, § 1; 1893, ch. 60, § 1; R. C. 1895, § 489.]

§ 615. ELECTOR MAY WRITE NAME OF CANDIDATE ON TICKET, WHEN.] Except as otherwise provided in this chapter it shall be the duty of the auditor of each county to provide printed ballots for every election for public officers in which the electors or any of the electors within the county participate and he shall cause to be printed on the ballots the name of each candidate whose name has been certified to or file with him in the manner provided for in this chapter. Ballots other than those printed by the respective county auditors shall not be cast or counted in any election. Nothing in this chapter shall prevent any voter from writing or pasting on his ballot the name of any person for whom he desires to vote and such vote shall be counted the same as if printed on the ballot and marked by the voter. [1891, ch. 66, § 15; R. C. 1899, § 490.]

§ 616. BALLOTS. HOW PREPARED.] All ballots prepared under the provisions of this chapter shall be white and of uniform quality of paper printed in black ink, and of sufficient width to contain all of the tickets to be voted for, under the appropriate party designation for each and of sufficient length to contain all the names of the candidates to be voted for at said election. On the left hand of said ticket shall be a column designating the office to be voted for, and on the same line in the column under the appropriate party designation of each, all the names of the candidates duly nominated for that office shall be printed. Where there is more than one person to be elected to an office, there shall be printed in plain type immediately under the designation of the office to be voted for, the following words, "Vote for (number) names only; Mark X after name to be voted for and cross out names not desired. The names of the greatest number of candidates for such an office appearing in either of the two left hand columns, or if said two left hand

columns have an equal number of names, then the first left hand column, and every second column to the right thereof on said ballot shall be alternated in the printing of said official ballot for each precinct by changing the position of the names in each office division as many times as there are candidates for such office." There shall be a space between the party designation at the top of each column and the names at the head of the ticket of five-eighths of an inch, in the center of which there shall be a square formed of black lines, in which the voter by his mark may declare that he voted for all names printed in that column, except such as are erased, or pasted or written over, or where the voter places a cross (X) or mark following the name of a candidate in another column, such name shall be counted in lieu of the name for the same office in the column voted for at the head of the ticket; provided, further, that where there are groups of names for a like position and a cross (X) is placed at the head of a party designation, and the voter places a cross or mark, following the name of one or more candidates in a group, in another column and fails or neglects to strike out the same number of names in the column originally voted for, the intention of the voter shall be construed to having voted for the name or names in the group so marked and the name or names in the same line on the opposite group shall not be counted. There shall also be left under the name of each candidate sufficient space to write, or paste a name therein, in lieu of the one printed on the ticket, and on the same line with the name of each candidate, and at the end of his name there shall be a space enclosed in a square of black lines, in which the voter may designate by a cross or other mark, his choice for each candidate opposite the name of such candidate. The fact that a name has been written or pasted opposite the office to be voted for shall be deemed sufficient evidence that the person depositing such ballot intended to vote for the person whose name he has written or pasted thereon, and not for the person whose name was originally printed on the ballot whether he shall make a mark or cross opposite such written or pasted name or not. The names of candidates under headings designating each official position shall be alternated on the official ballot in the printing in the manner as provided by the primary election law.

(Persons nominated by paper or by petition shall be placed in one or more columns under the designation of "Individual Nomination," on the same line with the offices for which they are nominated.)

Constitutional amendments duly certified to the auditor by the secretary of state or any question to be voted for



aside from the election of public officers, shall be printed on a separate ballot and shall be deposited in a box separate from that provided to receive the ballots for public officers. The ballots must embrace the constitutional amendments in full, and there shall be printed at the bottom of the amendments the word "yes" and underneath the same word "no," and opposite each a square formed of black lines, and the elector shall designate by a cross or other mark within the square how he desires his vote recorded. If the question be other than a constitutional amendment, it shall be stated fully and fairly on such ballot, and the words "yes" and "no," shall be printed on the ballot at the close of the statement of the question in separate lines with a square formed of black lines after each in which the voter may indicate by cross or other mark how he desires to vote on the question. Where two or more amendments or questions are to be voted on they shall be printed on the sample ballot. (1911 ch. 130.)

§ 617. CANDIDATE'S NAME IN ONE COLUMN ONLY.] When the same candidate has been nominated for the same office by more than one assembly, convention or body of electors qualified to make nominations for public office, such candidate shall file with the proper officer designated in section 626, on or before the day fixed by law for the filing of certificates of nomination for such office, a statement in writing signed by himself designating one of the columns upon such ballot allotted to one of the parties, assemblies, conventions or bodies of electors by whom said candidate has been nominated, as to the column upon such ballot in which such candidate desires his name to appear upon such ballot, and such candidate's name shall be printed upon such ballot in such column, but in no other. But if such candidate shall refuse or neglect to give notice to the proper officer, as above provided, specifying in which column he wishes his name printed on the ballot, then in such case the said officer shall cause his name to be printed in the column of the party or political organization from which he received first notice of such person's nomination. [1891, ch. 66. § 17; 1893, ch. 60, § 6; 1897, ch. 76; R. C. 1899, § 491.]

§ 618. ARRANGEMENT OF NAMES.] The candidates of the party casting the highest number of votes in the combined congressional districts of the state for members of congress at the last preceding general election shall be arranged in the first or left-hand column of such ballot; of the party casting the next highest number of votes, in the second column; of the party casting the next highest number of votes, in the third column; and of any other party as the

Secretary of State may direct for state officers, or the county auditor for county officers, the municipal or city auditor, or, in municipalities or cities not having a municipal or city auditor, the municipal or city clerk, for municipal or city officers; or the president of the board of trustees of incorporated villages for village officers, in presidential years. The names of electors of president and vice-president of the United States presented in one certificate of nomination shall be arranged in a group inclosed in brackets, to the right and opposite the center of which shall be printed in bold type the surname of the presidential candidate represented. To the right and in a line with such surname, near the margin, shall be placed a single square, and a mark within such square shall be designated a vote for all the electors, and such group shall be placed at the head of the column under the party designated or represented in such certificate. The auditor shall prepare the necessary ballots whenever any question is required by law to be submitted to a vote of the electors of any subdivision and not the state generally. The municipal or city auditor, or clerk, as the case may be, shall prepare and direct the printing and distributing of all ballots for municipal or city elections and for all questions that may be submitted to a vote of the electors of such municipality, except as provided in Section 614. (1913 chap. 152.)

§ 619. COUNTY AUDITOR TO PREPARE BALLOTS. NUMBER. POLL BOOKS.] The county auditor of each county shall provide for each election precinct in his county two ballots for each vote cast in such precinct at the last general election. Such ballots shall be distributed in packages or blocks containing no more than one hundred and fifty ballots each. The county auditor may provide for any such precincts such additional ballots as he may deem necessary. Each county auditor shall, at least five days before any election, have the ballots printed and the same may be inspected in the office of such auditor by any person. Such auditor shall also, at least five days before any election, send to the inspector in each precinct five copies of such ballot printed upon tinted paper, and such inspector shall post the same in five public places in his precinct, one of such copies to be posted at the polling place therein, for which services such inspector shall receive two dollars. The auditor shall at the time of distributing such copies cause to be delivered to the several inspectors the necessary number of blank forms of poll books and also blanks for the election returns with the proper captions, forms of oath and forms of certificates and tally sheets necessary to carry out the provisions of

this chapter. [1891, ch. 66, § 18; 1893, ch. 60, § 7; 1895, § 492.]

§ 620. BALLOTS, HOW DELIVERED. OFFICIAL STAMPS.] Each county auditor shall deliver or cause to be delivered by mail or other reliable method, to the inspector of election in each precinct in his county, the official ballot prepared by him, together with suitable manilla wrappers as hereinafter provided, at least twenty-four hours before the hour of opening the polls on election day. Such ballots and manilla wrappers shall be delivered in sealed packages marked on the outside plainly designating the number of ballots inclosed and the precinct for which they are intended. He shall also deliver or cause to be delivered to such inspector, or if that is impracticable, to one of the judges of election of such precinct, a stamp with an ink-pad for the purpose of stamping each ballot with the words "official ballot" and name or number of the precinct, the name of the county and the date of the election, and also a metal stamp the name of the county inscribed thereon for the purpose of stamping the wrapper containing the ballots as provided in Section 2 of this Act. (1913 chap. 154.)

§ 621. INSTRUCTIONS TO BE PRINTED.] Each county auditor shall cause to be printed on cards in large type full instructions to electors as to the manner of obtaining and preparing ballots and also containing a copy of section 683, 684, 8614 and 8615. He shall furnish ten such cards to the judges of election in each election precinct and the judges of election shall at the opening of the polls post at least one of such cards in each booth or compartment provided for the preparation of ballots and at least three of such cards in and about the polling place. There shall also be posted in each booth or compartment one of the official ballots without the official stamp hereinbefore provided for, and not less than three of such ballots shall be posted in other places in and about the polling place upon the morning of election. [1891, ch. 66, § 29; R. C. 1899, § 494.]

§ 622. POLL BOOKS, CONTENTS OF AND HOW DELIVERED.] It shall be the duty of the county auditor to provide uniform poll books for the use of his county, each poll book to contain a copy of the law prescribing the qualifications of electors and so much of this chapter as relates to the duties of inspectors, judges, and clerks of election, and the penalties imposed for offenses; such poll book shall also contain blanks for all entries required to be made therein; he shall also deliver to the sheriff two copies of said poll books for each election precinct in the county, and the sheriff shall deliver the same to each inspector of election, and such inspec-



tor of election shall deliver or cause the same to be delivered to the clerks of election in his precinct on the day of election. [R. C. 1895, § 495.]

§ 623. **BALLOT BOXES TO BE PROVIDED BY BOARD OF COUNTY COMMISSIONERS.**] The board of county commissioners shall at the expense of the county provide suitable ballot boxes for each election precinct in its county, and a separate ballot box in which the ballots of women entitled to vote under this chapter shall be deposited. [R. C. 1895, § 496.]

§ 624. **BLANKS TO BE TRANSMITTED BY SECRETARY OF STATE.**] The secretary of state shall at least thirty days before each general election transmit to each county auditor blank forms and envelopes for all returns of votes required to be made to his office, with such printed directions on the envelope as he deems necessary for the guidance of such officers in making returns according to law; and the expenses of furnishing such blanks and envelopes shall be paid for by the state. [R. C. 1899, § 497.]

§ 626. **CERTIFICATES OF NOMINATION, WHERE FILED.**] Certificates of nomination for candidates for offices to be filled by the electors of the entire state or of any division or district greater than a county and for legislative offices shall be filed with the secretary of state. [1891, ch. 66. § 4; 1893, ch. 60, § 4; R. C. 1899, § 500; 1905, ch. 109.]

(Supreme court may issue writ of mandamus when auditor refuses to receive and file county nominations. *State ex rel Fosser v. Lavik*, 9 N. D. 461, 83 N. W. 914.)

Certificate must be made and filed according to law. No substitution of names when certificate not filed. *Lucas v. Ringsrud*, 3 S. D. 355, 53 N. W. 426.

§ 627. **CERTIFICATE TO CONTAIN BUT ONE NAME.**] No certificate of nomination shall contain the name of more than one candidate for each office to be filled. No person shall participate directly or indirectly in the nomination at caucus, in convention or by petition of more than one person for each office to be filled, and no person shall accept a nomination for more than one office. No political party shall be entitled to have placed upon the official ballot more than one set or list of nominees for any state, county, city or other municipal office to be voted for in said state, county, city or municipality; and in case two or more organizations claiming or purporting to represent the same political party, shall file certificates of nomination under the same party designation, or such certificates indicate that the nominations therein mentioned were made by any person or

any organization representing the same political party, the secretary of state, in cases where such certificates are filed in his office, shall within the time prescribed by law for certifying state nominations to the county auditor, determine from the best available sources of information which organization filing such certificates has been longest in existence as a political organization representing such party; and only the nominees named by such organization, longest in existence, shall be certified to the county auditor, and such nominations only shall be printed on the official ballot. [And in case two or more organizations claiming or purporting to represent the same political party shall file certificates of nomination with the county auditor, city auditor, or clerk of any municipality, or such certificates indicate that the nominations therein mentioned were made by persons or organizations representing the same political party, the county auditor shall determine from the best available sources of information which organization, filing such certificates, has been longest in existence as a political organization representing such party; and only the nominations made by such organization longest in existence shall be printed on the official ballot; provided, however, that the decision of the officer determining which organization has been the longest in existence in representing such party, shall be subject to review by the court in a proper action instituted for such purpose; and provided, further, that this section shall not be construed to prohibit any new organization from nominating any person or persons for an office and having such nomination placed on the official ballot, but such organization shall not adopt the name or designation of the political party represented by the older organization, if still in existence, and the certificate of nomination filed by it shall, by clear and distinct language, indicate and show that the organization filing it represents a separate and distinct political party.] [1891, ch. 66, § 6; R. C. 1895, § 502; 1901, ch. 48.]

\*(Note:—That part of section 627 inclosed in brackets impliedly amended or repealed by chapter 190, laws 1905—sections 501-597 revised codes.)

§ 628. CERTIFICATE OF NOMINATION. WHEN TO BE FILED.] Certificates of nomination to be filed with the Secretary of State shall be filed not less than thirty days before the day fixed by law for election of persons in nomination. Such certificate of nomination may be sent by registered letter deposited in the post office on or before the last day and the receipt therefor filed with the county auditor (Certificates of nomination herein directed to be filed with the au-

ditor shall be filed not less than twenty-five days before the election; but the provisions of this section shall not apply to nominations for special elections to fill vacancies caused by death, resignations or otherwise.) The secretary of state and the several county auditors shall cause to be preserved in their respective offices for six months, all certificates of nomination filed therein under the provisions of this article. All such certificates shall be open to public inspection under proper regulations to be made by such officers. [1913 ch. 156.]

§ 629. SECRETARY OF STATE TO CERTIFY NOMINATIONS FOR STATE OFFICE.] Not less than thirty days or more than thirty-five days before an election to fill any state or district office, the secretary of state shall certify to each county auditor within which any of the electors may by law vote for candidates for such office, the name and post office address of each person nominated for such office as specified in the certificates of nomination filed with him. [1913 ch. 156.]

§ 630. NOMINATIONS TO BE PUBLISHED, WHEN.] At least ten days before an election to fill any public office under the provisions of this chapter the county auditor of each county shall cause to be published in one or more newspapers within the county nominations certified to him under the provisions of this chapter. The auditor shall make such publications daily until the election, in counties where daily newspapers are published; but if there is no daily newspaper published within the county two publications in each newspaper will be sufficient; and if there is no newspaper published in any county, written or printed notices shall be posted in at least three public places in each precinct. [1891, ch. 66, § 10; R. C. 1895, § 505.]

§ 631. IN CASE NOMINEE DECLINES, CERTIFICATE VOID.] Whenever any person nominated for public office as in this Chapter provided, shall at least thirty days before election, in writing notify the officer with whom the certificate nominating him is filed that he declines such nomination, such nomination shall be void. [1913 ch. 156.]

§ 632. VACANCIES ON TICKET, HOW FILLED.] Should any person so nominated die before the printing of the tickets or decline the nomination as in this chapter provided or should a vacancy occur upon the ticket for any other cause the vacancy thus occasioned may be filled in the manner required for original nominations. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, the committee of the political party in whose ticket such vacancy occurs



may fill the same. The chairman and secretary of such committee shall thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the name of the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies and such further information as is required to be given in an original certificate of nomination. When such certificate shall be filed with the secretary of state he shall, in certifying the nomination to the various auditors, insert the name of the person who has thus been nominated to fill a vacancy in place of that of the original nominee. And if he has already forwarded his certificate he shall forthwith certify to the auditor of the proper county the name and post office address of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents and the name of the person for whom such nominee is substituted. A failure to publish the name of a person so substituted shall not invalidate the election. [1891, ch. 66, § 12; R. C. 1895, § 507.]

(No substitution of names when certificate not filed.  
Lucas v. Ringsrud, S. D. 355, 53 N. W. 426.)

§ 633. VACANCY OCCURRING AFTER TICKETS ARE PRINTED.] When any vacancy occurs before election day and after the printing of the ballots and any person is nominated according to the provisions of this chapter to fill such vacancy the officer whose duty it is to have the tickets printed and distributed shall thereupon have printed on a requisite number of stickers the name of such substituted candidate and no other name, and shall mail them by registered letter or send by other reliable method to the judges of election in the various precincts affected by such vacancy, and the judges of election whose duty it is to distribute the tickets shall affix such stickers in the proper place on each ticket before it is given out to the electors. [1891, ch. 66, § 13; R. C. 1899, § 508.]

§ 634. CONSTITUTIONAL AMENDMENTS TO BE ADVERTISED.] Whenever a proposed constitutional amendment or other question is to be submitted to the people of the state for popular vote the secretary of state shall, not less than thirty days before election, certify the same to the auditor of each county in the state and the auditor of each county shall include the same in the publication provided for in section 630. Questions to be submitted to the people of the county shall be advertised as provided for nominees for office in such section. [1891, ch. 66, § 14; R. C. 1899, § 509.]

§ 635. PUBLICATION OF NAMES. ERROR, HOW CORRECTED.] Whenever it shall appear by affidavit that an error or omission has occurred in the publication of the names of the persons nominated or in the printing of the ballots the judge of the district court may upon application of an elector make an order requiring the auditor to show cause why such error should not be corrected and upon the hearing thereof he may make such order as the facts warrant. [1891, ch. 66, § 19; R. C. 1895, § 510.]

#### ARTICLE 7.—NOTICE OF ELECTION.

§ 636. NOTICE OF ELECTION, HOW GIVEN.] The secretary of state shall, between the first days of July and September in such year, direct and cause to be delivered to the county auditor of each county a notice specifying all the state officers whose term of office will expire between the first Monday in December and the first Monday in January next succeeding and specifying also the several officers to be chosen in such county at the next general election. The auditor to whom such notice is delivered shall cause notice of the same to be given as provided in the next section. [1892, Sp.; R. C. 1899, § 511.]

§ 637. NOTICE OF ELECTION TO BE PUBLISHED. FORM. POSTED, WHEN.] The county auditors of the several counties shall cause notice of any election to be published in each of the newspapers designated by the board of county commissioners for the publication of the official proceedings at least once in each week for four consecutive weeks next preceding such election. Such notice shall be as nearly as circumstances will admit, as follows:

Notice is hereby given that on Tuesday, the.....day of.....next, at.....in the township or precinct of....., in the county of....., an election will be held for state, district or county officers (naming the officers to be filled as the case may be), which election will be opened at eight o'clock in the morning and will continue open until five o'clock in the afternoon of that day. Dated .....day of.....A. D. 19...

(Signed A. B., County Auditor.

In case there shall be no newspaper published in the county in which such election is to be held, the county auditor shall deliver three copies of such notice for each precinct to the sheriff, coroner or other person designated by the board of county commissioners and such sheriff, coroner or other person shall post in three of the most public places in each precinct the notice pertaining to such precinct, at

least twenty days previous to the time of holding any general election and at least eight days previous to the time of holding any special election, and in cases where townships are not set off by law as election district, such notices shall be posted as follows: One at the huose where the election is authorized to be held and two at two of the most public places in that vicinity. The officer or person shall thereafter file with the county auditor an affidavit of such posting which shall be prima facie evidence of the facts therein stated. [1887, ch. 51, § 5; R. C. 1899, § 512.]

(Notice of special election posted in one precinct of a county only is fatally defective. Territory vs. Steele, 4 Dak. 78, 23 N. W. 91.

§ 638. WHEN POLLS ARE TO BE OPENED AND CLOSED.] At all elections held under the provisions of this chapter the polls shall be open at eight o'clock a. m., and closed at five o'clock p. m. Twenty minutes prior to five o'clock p. m., the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed and that such closing will be precisely at five o'clock p. m.; provided, however, that whenever it is made to appear to the satisfaction of the board of county commissioners that the conduct of any primary or general election may be facilitated or that the convenience of the people of any one or more precincts may be better subserved by the opening of the polls in said precinct or precincts at an earlier hour, not earlier than six a. m., or the keeping of the polls in such precinct or precincts open until a later hour, not later than eight p. m., the board shall, at the same meeting at which election precincts are designated and election officers named, by resolution designate the hours at which the polls in such precinct or precincts shall open and close, and that such resolution be published as a part of the notice of election. [1907 ch. 110.]

§ 639. EXAMINATION OF BALLOTS AND BOX AT OPENING OF POLLS.] On the opening of the polls the inspector in each precinct shall produce the sealed package of official ballots and publicly open the same and deliver one block of ballots to the ballot clerk, retaining the other blocks if any until they are needed for voting. Before declaring the polls open such inspector shall see that the ballot box is empty and allow the judges to satisfy themselves thereof after which such box shall be locked. [1891, ch. 66, § 21; R. C. 1899, § 514.]

§ 640. OFFICIAL BALLOT, HOW GIVEN TO ELECTOR.] The inspector or one of the judges of election shall deliver ballots to the qualified electors. Before delivering any ballot to an



elector the inspector or judge shall print on the back and near the top of the ballot with a stamp provided for that purpose, the designation "official ballot" and the other words provided for in section 620 and also write his initials thereon. Each qualified elector shall be entitled to receive from the judges one ballot. [1891, ch. 66, § 23; R. C. 1899, § 515.]

§ 641. ONLY ONE PERSON IN BOOTH.] Not more than one person shall be permitted to occupy any one booth or compartment at one time and no person shall remain in or occupy a booth or compartment longer than may be necessary to prepare his ballot and in no event longer than five minutes when the other booths or compartments are occupied. [1891, ch. 66, § 25; R. C. 1899, § 517.]

§ 642. IN CASE ELECTOR SPOILS BALLOT.] No person shall take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot he may successfully obtain others, one at a time, not exceeding three in all, upon returning each spoiled ballot. The ballots thus returned shall be immediately canceled and together with those not distributed to the voters shall be preserved and secured in sealed packages and returned to the county auditor from whom received. [1891, ch. 66, § 26; R. C. 1899, § 518.]

§ 643. IN CASE OF DISABILITY OF ELECTOR.] Any voter, who declares to the judges of election or when it appears to the judges of election that he cannot read or that by blindness or other physical disability he is unable to mark his ballot, shall, upon request, receive the assistance of two of the election officers in the marking thereof who shall be chosen from the different political parties, and such officers shall give no information regarding the same. The judges may in their discretion require such declaration of disability to be made by the voter under oath and they are authorized to administer such oath. No elector, other than one who is unable to read or on account of physical disability is unable to mark his ballot, shall divulge to any one within the polling place the name of any candidate for whom he intends to vote or ask or receive the assistance of any person within the polling place in the preparation of his ballot. [1891, ch. 66, § 27; R. C. 1895, § 519.]

§ 644. JUDGES TO DEPOSIT BALLOT IN BOX.] When a ballot shall be received one of the judges without opening the same or permitting it to be opened or examined except to ascertain whether it is a single ballot or not shall deposit it in the ballot box. [R. C. 1899, § 520.]

§ 645. ELECTION BOOTHS. FALSE SWEARING. PENALTY.] The inspectors of election shall provide in their respective polling places a sufficient number of booths or compartments which shall be furnished with such supplies and conveniences as to enable the voter conveniently to prepare his ballot for voting, and in which electors may mark their ballots, screened from observation and a guard rail with an opening so constructed that only persons within such rail can approach within ten feet of the ballot boxes or booths or compartments herein provided for; provided, that the number of booths or compartments shall not be less than one for each fifty electors or fraction thereof, in the precinct. No election shall be held in a room in which spiritous or malt liquors are commonly sold. Not more than one elector for each booth shall be permitted within the railing at any one time. One challenger appointed and designated from each of the political party organizations shall be entitled to stand at the opening of the railing at the outside. If any person offering to vote shall be challenged by one of such challengers or by any member of the board of election, such person shall, unless such challenge is withdrawn, stand aside and shall not vote unless he makes an affidavit that he is a legally qualified elector of the precinct, and any one who falsely swears in order to cast his vote shall be guilty of perjury, and upon conviction thereof shall be punished as prescribed in section 8702, chapter 12, penal code of the revised codes of 1905. The expenses of providing such booths or compartments and guard rails shall be a public charge and shall be provided for in the same manner as other election expenses. [1909 ch. 94.]

§ 646. BALLOTS OF WOMEN TO BE DEPOSITED IN SEPARATE BOX.] No ballot offered by any woman entitled to vote under this chapter shall contain the name of any person to be voted for at such election, except candidates for a school office, and no such ballot shall contain any proposition to be voted for except such as pertain solely to school matters: and all such ballots shall be deposited in a separate ballot box, but shall be canvassed with the ballots cast for candidates for school office by the male voters at such election. [R. C. 1895, § 522.]

#### ARTICLE 9.—CANVASS OF RETURNS.

§ 647. CANVASS OF VOTES.] As soon as the polls of the election shall be finally closed the inspectors shall proceed immediately to canvass publicly in the presence of all persons desiring to attend the same the votes received at such polls, and continue without adjournment until the canvass is

completed and the statements hereinafter required are made. They shall commence by a comparison of the poll lists and the correction of any mistakes therein until they shall be found or made to agree. The box shall then be opened and the ballots taken out and counted by the inspectors, unopened, except so far as to ascertain whether each ballot is single; and if two or more ballots are found so folded together as to present the appearance of a single ballot they shall be laid aside until the count of the ballot is completed; and if, upon a comparison of the count and the appearance of such ballot, a majority of the inspectors shall be of the opinion that the ballots thus folded together were voted by one elector, they shall be destroyed. If the ballots in the box shall be found to exceed in number, after any such ballots folded together are destroyed, the whole number of votes on the poll lists, they shall be replaced in the box and one of the inspectors shall publicly draw therefrom by chance and without examination thereof and destroy as many ballots unopened as shall be equal to such excess. The number of ballots agreeing, or so as aforesaid being made to agree with the poll lists, the inspectors shall then proceed to open, count and ascertain the number of votes. [1891, ch. 66, § 35; R. C. 1899, § 523.]

(When name of candidate appears more than once on ballot, cannot be counted. *Parmley v. Healy*, 7 S. D. 401, 64 N. W. 186; *Vallier v. Brakke*, 7 S. D. 343, 64 N. W. 180.)

(Construction given markings on official ballots is a question for court and not for jury. Identifying mark vitiates ballot. *Church vs. Walker*, 10 S. D. 90, 72 N. W. 101.)

§ 648. **BALLOTS, WHEN VOID.]** In the canvass of the votes, any ballot which is not indorsed as provided in this chapter by the official stamp and initials shall be void and shall not be counted, and any ballot or parts of a ballot from which it is impossible to determine the elector's choice shall be void and shall not be counted; provided, that when a ballot is sufficiently plain to gather therefrom a part of the voter's intention it shall be the duty of the judges of election to count such part. [1891, ch. 66, § 30; R. C. 1899, § 524.]

(Mandatory. Unstamped ballots illegal. *Miller v. Schallern*, 8 N. D. 395, 79 N. W. 865; *Lorin v. Seitz*, 8 N. D. 404, 79 N. W. 869; *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018.)

§ 649. **RESULT OF CANVASS TO BE IMMEDIATELY ANNOUNCED.]** The inspectors shall as soon as the count is completed pub-



lily announce the result thereof, specifying the whole number of votes cast for each office and for each candidate respectively; also the number of votes cast for and against each proposition voted for at such election. They shall immediately prepare in duplicate a statement in writing setting forth at length, in words and figures, the whole number of votes cast for each office and the names of all the persons for whom such votes were cast, together with the number of votes cast for each person; also the number of votes cast for and against each proposition voted upon at such election which statement they shall certify to be correct. [1891, ch. 66, § 36; R. C. 1899, § 525.]

§ 650. RETURNS. HOW AND WHERE MADE. COMPENSATION OF OFFICERS.] The inspector of election or one of the judges appointed by him, shall forthwith deliver to the clerk of the town, city or village, one of such statements and one of such poll lists, together with the stamp inscribed with the words "official ballot," to be filed and preserved in his office, and shall with all convenient dispatch and within three days after the election, deliver the other statement to the county auditor, said statement having been by the judges carefully sealed up, together with the other poll lists, and with the oaths of inspectors and clerks affixed, under cover, properly directed to the county auditor, and the person delivering such returns shall receive as compensation therefor the sum of two dollars and mileage at the rate of ten cents per mile, for each mile necessarily traveled in going to and from such auditor's office, to be paid out of the county treasury on the warrant of the county auditor.

The statement and poll list aforesaid, having been duly prepared for delivery to the county auditor as aforesaid, the inspector and judges of election shall cause the ballots of each kind cast at such election to be smoothly spread upon a wrapper of strong, durable paper of the same width of such ballots and of sufficient strength to permit of its being folded with the said ballots and form a complete wrapper therefor when folded. Such ballots and wrappers shall then be tightly folded together and the said wrapper securely pasted or glued at the outer end so as to completely envelop and firmly hold such roll together.

*Provided*, that ballots which are void shall be wrapped in a separate wrapper and so marked on said wrapper.

In the folding and sealing of the ballots as aforesaid, the various classes of ballots shall be kept separate.

The judges shall fold in two folds and lay in tiers all ballots counted by them except those which are void, and fold same securely in manilla wrappers not exceeding two hun-

dred (200) to each wrapper, on which shall be endorsed in writing or print, the number of the precinct, date on which the election was held, and securely seal such wrappers by sealing them with sealing wax and stamping on said wax the name of the county with a metal stamp, provided for that purpose, so that said wrappers cannot be opened without breaking the seal, and return said ballots together with those found void, to the county judge. Immediately upon receiving such ballots, the county judge shall give a receipt therefor to said judges of election, and shall place them properly arranged in the order of the precinct numbers in boxes which shall be securely locked. Said boxes shall be placed in a fire proof vault and shall be securely kept for six months, not opening or inspecting them nor allowing anyone else to do so, except upon order of court, in case of contested election, or when it shall be necessary to produce them at a trial for any offense committed at elections. At the end of six months after said election, said ballots shall be destroyed; *provided*, that if any contest of the election of any officer, voted for at such election, or prosecution under this Article shall be pending at the expiration of said time, the said ballots shall not be destroyed until such contest or prosecution be finally determined. In organized townships or in cities or villages, the inspector of elections shall deliver, if he is not himself the officer in question, the ballot boxes together with said metal stamp to the chairman of the board of supervisors of the civil township, or mayor of the city or president of the village, in which the election precinct is situated, as the case may be; and this officer shall keep in safe custody such boxes and stamp until the next election, or hand them over to his successor in office to be safely kept by him until such time. At the following general or primary election it shall be the duty of these officers to hand the ballot boxes and said stamp over to the inspector of elections. In unorganized townships the inspector of elections shall cause the ballot boxes to be delivered to the county auditor, at the same time, by the same person returning the ballots, and no extra compensation shall be allowed for such delivery. Any person violating any of the provisions of this Section is guilty of a misdemeanor.

It is the purpose of this Act to provide a safe place for the keeping of the ballots and to make them readily accessible for use in legal proceedings, and such ballots shall be received in evidence without further identification or foundation being laid, and any failure on the part of the election officers to comply with any of the formalities required hereby as to the return of said ballots, shall not in-



validate any election or cause any ballot otherwise regular to be disregarded and any omission or irregularities in the manner of identifying or returning the ballots of any precinct may be obviated by proof under the ordinary rules of evidence. [1913 chap. 154.]

§ 651. ABSTRACT OF VOTES. CERTIFICATES OF ELECTION. TIE, HOW DECIDED. PUBLICATION OF RETURNS.] On the fifteenth day after the close of any election, or as soon as the returns are received, the county auditor shall call to his assistance a majority of the county commissioners of the county or the county treasurer, county judge and one county commissioner, and none of the persons so called shall be a candidate for office, unless there is not sufficient of such officers who are not candidates, and shall proceed to open such returns and make abstracts of votes in the manner following from the certified statements prepared by the different inspectors of election in the various precincts. The abstract of votes for member of congress, governor, state auditor, commissioner of insurance, commissioner of agriculture and labor, state treasurer, secretary of state, attorney general, commissioners of railroads, superintendent of public instruction and lieutenant governor shall be on one sheet; the abstract of votes for members of the legislative assembly shall be on one sheet; the abstract of votes for county and precinct officers shall be on one sheet; and it shall be the duty of the county auditor immediately to make out a certificate of election to each of the persons having the highest number of votes for county and precinct officers respectively, and to deliver such certificate to the person entitled thereto on his making application to the county auditor therefor; provided, that when a tie shall exist between two or more persons for the senate or house of representatives, if such district is within the boundary of one county, the auditor of such county and if such district is within the boundaries of more than one county, then the county auditor of the county casting the greater number of votes for the office of governor, shall immediately by registered letter addressed to the respective candidates at their post office address, give notice to the several persons so having the highest and equal number of votes to attend at his office at a time appointed by him, which shall not be more than twenty days after the tie shall have been declared by such county auditor and they shall then proceed publicly to decide by lot which of the persons so having the highest and equal number of votes shall be declared duly elected and such auditor shall make and deliver to the person thus declared duly elected a certificate of his election as hereinbefore provided. It shall be the duty of the coun-



ty auditor of each county, on receipt of the returns of any election, to make out his certificate, stating therein the compensation to which the judges and clerks of election may be entitled for their services and lay the same before the board of county commissioners at their next session, and the said board shall order the compensation aforesaid to be paid out of the county treasury. Immediately after canvassing the returns and making the abstract of votes as provided in this section, the county auditor shall make a certified copy of each abstract and forward it to the secretary of state, and also cause to be published in the official newspapers of the county, in tabular form, the vote by precincts for each officer and proposition voted for at said election; such publication to be paid for at a rate not exceeding the rate paid for publishing county commissioners proceedings. If the county auditor is a candidate for office, he shall take no part in the canvass, but shall act as clerk of such board of canvassers, and the two officers called to the assistance of the county auditor to make such canvass, shall call to their assistance a justice of the peace, and it shall thereupon be their duty at once to attend and canvass such returns as provided by law. [1909 ch. 95.]

§ 652. TIE VOTE. DUTY OF COUNTY AUDITOR.] If the requisite number of officers shall not be elected by reason of two or more persons having an equal and highest number of votes for one and the same office, the county auditor whose duty it is to compare the polls shall give notice to the several persons so having the highest and equal number of votes to attend at his office at a time appointed by him, and they shall then proceed publicly to decide by lot which of the persons so having an equal number of votes shall be declared duly elected, and such auditor shall make and deliver to the person thus declared duly elected a certificate of his election as hereinbefore provided. [R. C. 1899, § 528.]

§ 653. STATE BOARD OF CANVASSERS, HOW CONSTITUTED.] The secretary of state, state auditor, state treasurer, attorney general and superintendent of public instruction shall constitute the state board of canvassers, three of whom shall be a quorum for the transaction of business, and if less than a quorum of said officers attend on the day appointed for a meeting of the board, then those so attending are hereby authorized to summon others of the state officers sufficient to constitute a quorum, who on being notified by the officer or officers so attending, shall attend without delay and act as a member of such board. [1892, Sp.; R. C. 1895, § 530.]

§ 654. WHEN MEMBER DISQUALIFIED.] When a member of such board is a candidate for any office as to which the votes are to be canvassed by him, the governor shall designate some other state officer who shall act in his stead at the session of the board while the votes given for such member are being canvassed. [1892, Sp.; R. C. 1899, § 531.]

§ 655. COUNTY AUDITOR TO FORWARD ABSTRACT OF VOTES.] It shall be the duty of the county auditor of each county, under his official seal, to return to the secretary of state on or before the first Tuesday of December following any general election, and within thirty days following any special election, a certified abstract of the number of votes cast in his county at such election for each candidate for state and congressional offices, electors for president and vice president, judges of the supreme and district courts, members of the legislative assembly and for amendments to the constitution or proposition submitted by the legislative assembly; provided, that the county auditor shall make a separate certified abstract of the votes cast for persons for electors of president and vice president of the United States. He shall seal up such separate abstract and indorse it: "Presidential Elector Returns" and without delay transmit it to the secretary of state by registered mail. [1892, Sp.; R. C. 1895, § 532.]

§ 656. SECRETARY OF STATE TO FILE ABSTRACT OF VOTES.] The secretary of state upon receipt of the certified abstract of votes from the several counties shall record the result of such election by counties and shall file and carefully preserve the certified statements so received from the county auditors, and if no such statement shall be received by him from the county auditor of any county prior to the time specified for the meeting of the state board of canvassers he may and it is his duty to dispatch a special messenger to obtain such statement, at the expense of such county, and such auditor shall on demand of such messenger make and deliver to him the statement required which the messenger shall deliver to the secretary of state to be recorded and filed by him as aforesaid. Such messenger shall be allowed the sum of ten cents per mile for each mile necessarily traveled in going to and returning from the office of such county auditor, the same to be audited by the state auditor upon the certificate of the secretary of state and the state treasurer shall present a bill for the amount so audited against the county failing to send up such returns as above provided, which bill so presented shall be audited by the board of county commissioners of such county and paid by the county treasurer. [1892, Sp.; R. C. 1895, § 533.]

§ 657. STATE CANVASSING BOARD, MEETING OF.] For the purpose of canvassing and ascertaining the result of such election the state board of canvassers shall meet at the office of the secretary of state on the second Tuesday in December next after a general election and within forty days after a special election, and the secretary of state shall notify the other members of the board of the same. [1892, Sp.; R. C. 1899, § 534.]

§ 658. DUTY OF BOARD.] The board when thus formed shall examine such certified statements of the county canvassers, and if it shall appear that any material mistake has been made in the computation of votes given for any person, or that the county canvassers in any county have omitted to canvass the votes, or any part thereof, cast in any precinct in their county, the board may dispatch a messenger to the county auditor of such county at the expense of such county, with its requirement in writing to him to certify the facts concerning such mistake and the reason why such votes were not canvassed; and the county auditor to whom any such requirement is delivered shall forthwith make a true and full answer thereto under his hand and official seal, and deliver the same to such messenger who shall deliver the same with all convenient dispatch to the secretary of state. [1892, Sp.; R. C. 1895, § 535.]

(May adjourn for a reasonable time to obtain properly authenticated returns. *Woods v. Sheldon*, 9 S. D. 392, 69 N. W. 602.

§ 659. ADJOURNMENT OF BOARD.] Such board may adjourn from day to day, not exceeding three days in all, except to await the return of a messenger dispatched, as provided in the preceding section, and then only for such time as may be necessary. [1892, Sp.; 1897, ch. 34; R. C. 1899, § 536.]

§ 660. CANVASS OF VOTES TO BE PUBLIC.] Upon the certified statements and returns so received the board shall proceed publicly to examine and make a statement of the whole number of votes given at any such election for each and all state officers; and another statement of the votes given for members of congress, each of which statements shall show the names of the persons to whom such vote shall have been given for either of said offices, and the whole number of votes given to each, distinguishing the several districts and counties in which they are given. A majority of such canvassers shall decide all matters of disagreement, and they shall disregard all technicalities and mis-spelling, the use of initial letters and abbreviations of



the names of candidates, if it can be ascertained from the returns for whom the votes were intended. In case there shall be no choice by reason of any two or more persons having an equal and the highest number of votes the governor shall by proclamation order a new election. [1892, Sp.; R. C. 1895, § 537.]

§ 661. CERTIFICATE OF RESULT.] They shall certify such statements to be correct and subscribe their names thereto and they shall thereupon determine what persons have been by the greatest number of votes duly elected to such offices, or either of them, and shall make out and subscribe on each statement a certificate of such determination and deliver the same to the secretary of state. [1892, Sp.; R. C. 1899, § 538.]

§ 662. CERTIFICATES OF ELECTION, SECRETARY OF STATE TO ISSUE.] The secretary of state shall record in his office each certified statement and determination so made by said board, and shall forthwith make out and transmit to each of the persons thereby declared to be elected a certificate of election as hereinafter provided and he shall also forthwith cause a copy of such certified statement and determination to be published in a newspaper printed at the seat of government. [1892, Sp.; R. C. 1899, § 539.]

§ 663. CERTIFICATE FOR MEMBERS OF CONGRESS.] Certificates of the election of members of congress shall be signed by the governor with the great seal affixed and be countersigned by the secretary of state and the governor shall cause same to be delivered to the persons elected. [1892, Sp.; R. C. 1899, § 540.]

§ 664. PRESIDENTIAL ELECTORS.] The board in examining and making a statement of the votes and in determining and certifying the persons chosen as electors of president and vice president shall proceed in the manner prescribed by law to be pursued by them in the canvass for state officers, and the secretary of state shall likewise file and record such statement and determination. In canvassing the returns for presidential electors the persons having the greatest number of votes are to be declared elected, and if more than the requisite number of persons are found to have the greatest and an equal number of votes the election of one of them shall be determined by lot, to be drawn by the governor in the presence of the other canvassers. The secretary of state shall prepare three lists of the names of such electors elected at any election, procure thereto the signature of the governor, and affix the great seal of the state to the same, and deliver such certificate thus signed

and sealed to said electors on or before the second Monday in January next after such election. [1892, Sp.; R. C. 1895, § 541.]

§ 665. FORM OF CERTIFICATE.] A certificate shall be prepared by the secretary of state for each person elected, in substance as follows:

At an election held on the.....day of.....A. B. was elected to the office of.....of said state for the term of.....years from the.....day of.....in the year..... or, if to fill vacancy, say for the residue of the term ending on the.....day of.....A. D. 19....

Given at Bismarck this.....day of.....A. D. 19....

Which certificate shall be signed by the governor and the secretary of state, and the seal of the state affixed, and be attested by at least one of the other canvassers. [1892, Sp.; R. C. 1899, § 542.]

§ 666. CERTIFICATES OF ELECTION.] The secretary of state shall issue certificates of election to all members of the legislative assembly at the time that certificates of election to state officers by him are issued. [1903, ch. 119.]

§ 667. CONSTITUTIONAL AMENDMENTS, ETC. CERTIFICATES AS TO.] For the purpose of canvassing and ascertaining the result of the votes taken at any election upon any proposed amendment to the constitution, or proposition submitted to a vote of the people by the legislative assembly, the state board of canvassers shall proceed to examine such statements, and to ascertain and determine the result and shall certify under their hands a statement of the whole number of votes given for and the whole number of votes given against such amendment or proposition, and they shall thereupon determine whether such amendment or proposition has been approved and ratified by a majority of the electors voting thereon, and shall make and subscribe on such statement a certificate of such determination. [1892, Sp.; R. C. 1899, § 543.]

§ 668. RECORD OF RESULT.] The secretary of state shall record in his office such certified statements and determination; and if it shall appear that such amendment or proposition has been approved, ratified or adopted as aforesaid, he shall also make a record thereof, and cause such record to be bound in the volume containing the original enrolled laws passed at the next succeeding session of the legislative assembly, and cause such record to be published with such laws. [1892, Sp.; 1899, § 544.]

§ 669. WHAT RETURNS SHALL BE CANVASSED.] The board of state canvassers, in canvassing to ascertain the result of any election, shall canvass only the regular returns made by the county board of canvassers, as provided in this chapter. [1892, Sp.; R. C. 1899, § 545.]

§ 670. PROCLAMATION OF RESULT BY GOVERNOR.] The governor shall, within ten days after the completion of the canvass by the state board of canvassers of the votes cast for presidential electors, as certified by the auditors of the respective counties, declare by proclamation, to be printed in some newspaper printed and published at the seat of government, the names of the several persons who have received not less than one-fifth of all the votes cast, and the number of votes received, by each person, and the several persons, who have received the highest number of votes so returned, and whose election shall not have been contested and notice of such contest given to the governor within ten days after the date of such proclamation, shall be deemed and taken to be elected, and the governor shall thereupon transmit to each person so chosen a certificate of his election. [1892, Sp.; R. C. 1899, § 546.]

§ 671. INFORMALITY IN RETURNS DISREGARDED.] No election returns shall be refused by any county auditor for the reason that the same may be returned or delivered to him in any other than the manner directed in this chapter, nor shall he refuse to include any returns for any informality in holding an election or in making returns thereof; but all returns shall be received and the votes canvassed and a certificate given to the person who may by such returns have the greatest number of votes. [R. C. 1899, § 547.]

§ 672. CANVASSERS, HOW TO PROCEED.] The county auditor and other persons constituting the county board of canvassers shall, in canvassing the election returns, disregard technicalities and misspelling, the use of initial letters or abbreviations of the name of the candidates for office, if it can be ascertained from such vote for whom they were intended; but they shall not count votes polled in any place except as established precincts, and a breach of the provisions of this section shall be deemed a misdemeanor in office and punished accordingly. A majority of the members of such board shall decide all matters of disagreement. [R. C. 1895, § 548.]

§ 673. DEFECTIVE RETURNS. DUTY OF CANVASSING BOARD. PENALTY.] When the returns of the election precinct officers are made to the county canvassing board as now provided by law, in case any provision of the law relative to



the duties of said election precinct officers has not been complied with by said election precinct officers, and which is capable of correction or compliance by said board, the county canvassing board is authorized and empowered to issue its subpoenas to the officers of the election precinct wherein the defect occurs, requiring said officers to appear forthwith before said county canvassing board and correct any omission or mistake according to the facts, and said amended or corrected returns shall then be acted on by said county canvassing board, and said county canvassing board shall issue its certificate of election to the party entitled thereto, as shown by the returns as amended or corrected. In case any officer of any election precinct so subpoenaed should neglect or refuse to obey said subpoena, the said person so refusing shall be arrested by bench warrant issued out of the office of the clerk of district court, in the county where said proceedings occur, and brought before said canvassing board and there make the necessary correction according to the facts, and a refusal of said officer to make the said correction shall be deemed a contempt of the district court, to be punished as provided for ordinary contempt of court, upon the proper showing, and the procedure shall be the same as in ordinary cases of contempt of court. [1903, ch. 91.]

§ 674. RETURNS INDORSED BY SECRETARY OF STATE.] A memorandum of the date of reception of all returns of votes at the secretary's office shall be made at such office on the envelope containing them. [R. C. 1899, § 549.]

#### ARTICLE 10.—RESIGNATIONS AND VACANCIES.

§ 675. RESIGNATIONS AND VACANCIES. SPECIAL ELECTION.] Any person who shall receive a certificate of his election as a member of the legislative assembly, county auditor, county treasurer, register of deeds, sheriff, state's attorney, clerk of the district court, county judge or county commissioner, shall be at liberty to resign such office, although he may not have entered upon the execution of the duties thereof or taken the requisite oath of office, and when any vacancy shall happen in the legislative assembly by death, resignation or otherwise it shall be the duty of the county auditor of the county in which such vacancy occurs officially to notify the governor thereof; whereupon the governor shall issue a writ of election directed to the sheriff of such county commanding him to notify the several boards of election in his county or district to hold a special election to fill such vacancy at a time to be appointed by the governor; provided, that if there is no session of the legislative assembly be-

tween the time such vacancy occurs and the time of holding the next general election, it shall not be necessary to order a special election to fill such vacancy; and when any vacancy occurs in the office of a member of congress from this state, it shall be the duty of the governor to issue his proclamation appointing a day to hold a special election to fill such vacancy. [R. C. 1899, § 550.]

§ 676. DUTY OF GOVERNOR IN CASE OF CERTAIN VACANCIES.] Should a vacancy occur in the office of a member of the legislative assembly, while in session, by death, resignation, removal or otherwise, it shall be the duty of the governor immediately upon receiving official notice thereof to proceed in the same manner as is prescribed for other cases in the preceding section. [R. C. 1899, § 551.]

§ 677. DIVISION OF LEGISLATIVE DISTRICT SUBSEQUENT TO ELECTION.] If a vacancy occurs in the legislative assembly for any cause, and the county or counties comprising the district in which such vacancy occurs shall have been divided after the election of the member whose seat is vacant, and before the election to fill such vacancy, such election shall be ordered in each county in which any part of the original county or district may be situated; but no person shall be permitted to vote at such election who does not at the time reside within the limits of the county or district in which such vacancy occurred. [R. C. 1895, § 552.]

§ 678. CANVASS AND RETURNS OF ELECTION TO FILL VACANCIES.] Votes cast at elections to fill vacancies shall be canvassed and returned as provided in other cases, and the county auditor shall without delay forward to the secretary of state the abstracts of the same. [R. C. 1895, § 553.]

#### ARTICLE 11.—PRESIDENTIAL ELECTORS.

§ 679. WHEN ELECTORS CONVENE. VACANCIES, HOW FILLED.] The electors of president and vice president shall convene at the seat of government of this state on the second Monday in January next after their election at the hour of twelve o'clock noon of that day, and if there shall be any vacancy in the office of an elector, occasioned by the death or refusal to act, neglect to attend or other cause, the electors present shall immediately proceed to fill such vacancy by ballot, by a plurality of votes, and when all the electors shall appear, or the vacancies shall have been filled as above provided they shall proceed to perform the duties required of such electors by the constitution and laws of the United States. [1890, ch. 109, § 1; R. C. 1895, § 554.]

§ 680.—PER DIEM AND MILEAGE.] The electors of president and vice president of the United States shall receive the same per diem and mileage as is allowed to members of the legislative assembly, and there is hereby appropriated as a standing and continuing appropriation such a sum of money as may be necessary to pay such per diem and mileage. [1892, Sp.; R. C. 1899, § 555.]

ARTICLE 12.—MISCELLANEOUS PROVISIONS.

§ 681. PENALTY FOR DEPOSITING UNSTAMPED BALLOT.] No inspector or judge of election shall deposit in any ballot box any ballot upon which the official stamp as hereinbefore provided for does not appear. Every person violating the provisions of this section is guilty of a misdemeanor. [1891, ch. 66, § 28; R. C. 1899, § 556.]

§ 682. PENALTY FOR REJECTING LEGAL VOTE.] Any board of election or any member of any board of election who willfully and knowingly rejects any legal vote shall be subject to a fine of fifty dollars to be collected in a civil action before any justice of the peace in the name and for the benefit of the person aggrieved. [R. C. 1899, § 557.]

§ 683. PENALTY FOR FAILURE OF OFFICER TO PERFORM DUTY.] Any public officer upon whom any duty is imposed by this chapter who shall willfully do or perform any act or thing herein prohibited or who willfully neglects or omits to perform any duty imposed upon him by the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof is punishable by forfeiture of his office and by imprisonment in the county jail for not less than one month nor more than six months or by a fine of not less than fifty nor more than five hundred dollars, or both. [1891, ch. 66, § 33; R. C. 1899, § 558.]

§ 684. ELECTIONEERING PROHIBITED. SECRET BALLOT.] No electioneering shall be done on election day by any officer of election nor by any person within the polling place or any building in which an election is being held or within fifty feet thereof, nor obstruct the doors or entrance thereto, or prevent free ingress to or egress from said building. And the inspector and judges of election shall, if they deem it necessary, appoint an election officer; such election officer, or the sheriff, constable, or other peace officer is authorized and it is his duty to clear the passageway and prevent such obstruction and to arrest any person creating such obstruction. No person shall remove any ballot from the polling place before the closing of the polls. No person shall show his ballot, after it is marked, to any person in



such a way as to reveal the contents thereof or the name of any person for whom he has marked his vote nor shall any person solicit the elector to show the same; nor shall any person except a judge of election receive from any elector a ballot prepared for voting. No elector shall receive a ballot from any other person than the inspector or one of the judges of election having charge of the ballots nor shall any person other than such inspector or judges of election deliver a ballot to such elector. No elector shall vote or offer to vote any ballot except such as he has received from the inspector or a judge of election having charge of the ballots. No elector shall place any mark upon his ballot by which it may afterwards be identified as the one voted by him. Any elector who does not vote a ballot delivered to him by the judges of election having charge of the ballots shall, before leaving the polling place, return such ballot to such judges. Whoever violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof is punishable by a fine not exceeding one hundred dollars and shall be adjudged to pay the costs of prosecution. [1891, ch. 66, § 34; R. C. 1899, § 559.]

§ 685. PENALTY FOR VIOLATION OF ELECTION LAWS.] If any inspector, judge or clerk of election, county auditor or other person in any manner concerned in conducting an election shall corruptly violate any of the provisions of this chapter he shall forfeit and pay to the county a sum not less than fifty nor more than five hundred dollars to be recovered in a civil action in the name of the proper county. [R. C. 1895, § 560.]

§ 686. NO CIVIL PROCESS SERVED ON ELECTION DAY.] During the day on which any general or special election shall be held in this state or in any district, county, city, village or precinct therein, no civil process shall be served on any person entitled to vote at such election. [R. C. 1899, § 561.]

§ 687. COMPENSATION OF ELECTION OFFICERS.] There shall be allowed to the several inspectors, judges and clerks of election of each county the sum of twenty-five cents for each hour they serve as such election officers, to be paid out of the county treasury on the warrant of the county auditor; provided, however, that in no case shall an inspector, judge or clerk of election be paid for such services a sum exceeding four dollars. [1909, ch. 93.]

### ARTICLE 13.—CONTESTING ELECTIONS.

§ 688. NOTICE OF CONTEST, HOW SERVED.] Any person son claiming the right to hold an office, or any elector of

the proper county desiring to contest the validity of an election or the right of any person declared duly elected to any office in such county, shall give notice thereof in writing to the person whose election he intends to contest within twenty days after the canvass of the votes of such election, which notice shall be served in the same manner as a summons in a civil action. But if the person whose election is contested cannot be found and shall have ceased to have residence in such county or state, then the notice shall be served by leaving the same at the house where such person last resided, and if no service as above provided can be made, or if no such residence can be found in the state the district court or judge thereof may expressly direct the manner of such service, which notice of contest shall be in writing and shall set forth the facts and grounds upon which the contestant relies in his contest, and shall be verified as a pleading in a civil action. [1885, ch. 54, § 1; R. C. 1899, § 563.]

(Title to county office may be tried by statutory mode or by proceedings in the nature of quo warranto. *State v. Callahan*, 4 N. D. 481, 61 N. W. 1025.

("Canvass" defined. Time within which notice must be served commences to run from date candidate is declared "duly elected." *Bowler v. Eisenhood*, 1 S. D. 577, 48 N. W. 136.

(What notice must contain. *Batterton v. Fuller*, 6 S. D. 257, 60 N. W. 1071.

("Was duly elected" sufficiently states legal qualifications. *McMahon v. Polk*, 10 S. D. 296, 73 N. W. 77; *Church v. Walker*, 10 S. D. 90, 72 N. W. 101.

(Not necessary to allege qualifications, issue being who received largest number of votes. *Church v. Walker*, 10 S. D. 450, 74 N. W. 198.)

§ 689. ANSWER TO NOTICE OF CONTEST.] Any person, upon whom the notice mentioned in the preceding section is served, shall within ten days after such service answer such notice, admitting or denying the facts alleged therein, and he shall state any other grounds upon which he rests the validity of his election, and shall serve a copy of such answer upon the contestant and all allegations set forth in the notice and not denied in the answer shall be taken as admitted. Such answers shall be served as a pleading in a civil action, and when contestant appears by attorney the service thereof may be made upon the attorney. [1885, ch. 54, § 2; R. C. 1895, § 564.]

§ 690. CONTEST MAY BE BROUGHT BY WHOM.] Such contest may be brought by a person claiming such office on his

own motion, in his own name as plaintiff, but such contest cannot be brought by any other person unless the notice of contest is indorsed with the approval of the state's attorney of the county, or in case of his absence or refusal to approve it, with the approval of the judge of the district court. [1885, ch. 54, § 3; R. C. 1895, § 565.]

§ 691. TRIAL OF CNOTEST.] The judge of the district court, in case no term of such court occurs in such county within twenty days after the service of the answer in such contest, may appoint a term of such court therein; but if a term of court occurs in such county before that time, then the contest shall be tried at such term, unless otherwise ordered by the court. The district court or the judge thereof may, upon ten days' notice by either party try such contest at chambers at any place fixed by the court; or he may on such application or on his own motion, if the pleadings involve a question of fact, order such issues to be tried before a jury, or refer the same as provided in this chapter, and postpone the trial thereof until it can be had in such county, regard being had to the speediest possible trial. If the issues are ordered to be tried by a jury the question to be tried must be distinctly stated in the order of trial, and the place of such trial must be designated in such order. [1885, ch. 54, § 4; R. C. 1899, § 566.]

(Jurisdiction of court continues until contest tried or dismissed. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018.)

§ 692. TESTIMONY AND PROCEDURE IN CONTESTS.] All testimony and depositions taken in contests brought under the provisions of this article shall be taken in the same manner as in civil actions, and depositions may be taken in more than one place at the same time on leave of the court, and all matters relating to such contests shall be heard and tried as nearly as may be as civil actions are tried, except as otherwise provided in this article; and the costs shall be taxed in the same manner as in civil actions, and the court shall have power to order amendments to the notice and answer and to all other proceedings as provided in the code of civil procedure, and he shall have power to make all orders and enter final judgment in such contests the same as in civil actions. [1885, ch. 54, § 5; R. C. 1895, § 567.]

§ 693. CONTESTS OF ELECTIONS FOR REMOVAL OF COUNTY SEAT, ETC.] In any county where there is a vote for the election or for the removing of changing of the county seat of such county, or changing the county lines thereof, any elector of such county on leave of the district court may



contest the validity of such election as to the right of the place declared and selected as the county seat, or as to any county line declared to be established or changed by a vote. Such elector shall give notice in writing of such contest to the county commissioners or a majority of them, of the county in which such vote was taken, by serving a notice as provided in section 688, within thirty days after the result of such vote is canvassed. Such notice shall specify the grounds of such contest, and shall be filed with the clerk of the district court within ten days after the service thereof upon the county commissioners as aforesaid, and such contest shall be tried and determined by the district court or by a jury as provided for in this article for the contest of county officers. The county commissioners of such county shall appear and defend such contests, but in case they fail to appear and defend the same, any elector of such county may at any time before such trial, on leave of the court, appear and defend the same, and all testimony and depositions shall be taken in the same manner as in civil actions. [1885, ch. 54, § 6; R. C. 1895, § 568.]

(Mandamus held proper remedy to determine county seat contest. *State v. Langlie*, 5 N. D. 594, 67 N. W. 958.)

(Can be tested only in direct proceedings. *Remington v. Higgins* 6 S. D. 313, 60 N. W. 73.)

§ 694. CONTESTS MAY BE TRIED BY REFEREE.] All contests brought under the provisions of this article may be referred by the court or judge thereof to a referee as provided in the code of civil procedure, and when the parties to such contest do not consent to a reference the court or a judge thereof may in his discretion order such reference. [1885, ch. 54, § 7; R. C. 1899, § 569.]

§ 695. SURETY FOR COSTS MUST BE FURNISHED.] Any person bringing a contest under the provisions of this article must before bringing the same furnish good and sufficient surety for costs as provided in the code of civil procedure, and the obligation of such surety shall be complete by simply indorsing the notice of contest as surety for costs. [1885, ch. 54, § 8; R. C. 1899, § 570.]

§ 696. APPEALS IN CONTEST CASES.] Appeals from final judgment or decisions in such contests may be taken without making a motion for a new trial in the district court in the manner provided for in the code of civil procedure, except that the undertaking on appeal shall be in the sum to be fixed by the judge, not less than five hundred dollars, and shall be approved by the judge or by the clerk of the dis-

strict court of the proper county or subdivision under the direction of the judge. [1885, ch. 54, § 9; R. C. 1895, § 571.]

(Appeal does not lie from order vacating default judgment. *Jensen v. Petty*, 14 S. D. 434, 85 N. W. 923.)

§ 697. APPEALS TO THE SUPREME COURT.] Appeals to the supreme court under the provisions of this article must be taken within sixty days after notice of the entry of final judgment, and the party appealing must immediately procure the transmission of the record on such appeal to the clerk of the supreme court, and such appeal may be brought on for hearing before the supreme court at any time such court shall be in session upon ten days' notice from either party and the same shall be heard and determined in a summary manner. Such notice of hearing may be served during the term or in vacation. [1885, ch. 54, § 10; R. C. 1899, § 572.]

(Appeal does not suspend right of successful party to perform the duties of his office. *Fylpaa v. Brown Co.*, 6 S. D. 634, 62 N. W. 962.

(Appeal dismissed unless taken within sixty days from entry of final judgment. *Murray v. Whitmore*, 9 S. D. 288, 68 N. W. 745.)

§ 698. CONSTRUCTION OF THIS ARTICLE.] This article shall not be construed to affect any of the remedies or rights of action or proceedings provided for in the code of civil procedure. [1885, ch. 54, § 11; R. C. 1899, § 573.]

(May be tried by either statutory or civil action. *State ex rel Butler v. Callahan*, 4 N. D. 481, 61 N. W. 1025.

(Right may be tried by mandamus. *Smith v. Lawrence*, 2 S. D. 185, 49 N. W. 7; *State v. Langlie*, 5 N. D. 594, 67 N. W. 958.)

§ 699. PROVISION OF CODE OF CIVIL PROCEDURE APPLICABLE, WHEN.] Except as otherwise provided in this article, the provisions of the code of civil procedure are applicable to and constitute the rules of practice in the proceedings mentioned in this article. [1885, ch. 54, § 12; R. C. 1899, § 574.]

§ 700. PROVISIONS OF CODE OF CIVIL PROCEDURE APPLICABLE AS TO APPEALS.] The provisions of the code of civil procedure relative to appeals in civil actions, except in so far as they are inconsistent herewith, apply to the proceedings mentioned in this article. [1885, ch. 54, § 13; R. C. 1895, § 575.]

## ARTICLE 14.—CONTEST OF ELECTION OF PRESIDENTIAL ELECTORS.

§ 701. COURT FOR TRIAL. CONTESTS OF PRESIDENTIAL ELECTORS.] The board for the trial of contests of elections for presidential electors shall consist of the chief justice of the supreme court, who shall be president of the board, and two judges of the district court, to be designated by the governor. If the chief justice shall for any cause be unable to attend at such trial, the next senior judge on the supreme bench shall preside in place of the chief justice. The secretary of state shall be the clerk of the board, or in his absence or inability to act the clerk of the supreme court shall be the clerk. Each member of the court before entering upon the discharge of his duties shall take an oath before the secretary of state or some officer qualified to administer oaths, that without fear, favor, affection or hope of reward he will, to the best of his knowledge and ability, administer justice according to law and the facts of the case. [1892, Sp.; R. C. 1895, § 576.]

§ 702. CONTESTANT MAY APPLY TO COURT.] Any person who by the proclamation of the governor as hereinbefore provided, appears to have received not less than one-fifth of the votes cast at an election for electors of president and vice president of the United States may apply to the board provided for in the preceding section for a declaration of his election as elector. [1892, Sp.; R. C. 1895, § 577.]

§ 703. APPLICATION TO STATE GROUNDS OF CONTEST.] Such application shall be made by petition in writing to be filed in the office of the secretary of state within ten days from the date of the proclamation provided for in section 670, who shall forthwith convene the board. The petition shall set forth the names of the persons whose election is contested, and the ground for such contest. The petitioner shall before any proceedings are had upon the petition, except the convening of the board, file a bond to the state in such sum and with such surety as the court shall order, conditioned for the payment of all costs incurred in the prosecution of such contest in case he shall not prevail. [1892, Sp.; R. C. 1895, § 578.]

§ 704. NOTICE TO PARTY CONTESTED, HOW GIVEN.] Upon the filing of such petition and the giving of such bond the board shall order notice of the petition to be given, in such manner as it may direct, to the governor and to the person whose election is contested, which notice shall be published in such newspaper as the board shall order. Such notice shall contain a concise statement of the facts alleged in the petition and shall designate the time and place fixed by the



board for the hearing of the same, which time shall not be less than three nor more than fifteen days from the filing of the petition. [1892, Sp.; R. C. 1895, § 579.]

§ 705. APPEARANCE BY PARTIES TO CONTEST.] At the time fixed for the hearing the petitioner shall appear and produce his evidence and the person whose election is contested may appear and produce evidence in his behalf. Either party may appear in person or by attorney, and no other person shall be entitled to be made a party to such proceedings or to be heard personally or by counsel therein; provided, that if more than one petition is pending or more than one election is contested the board may order the contests to be heard together in its discretion. [1892, Sp.; R. C. 1895, § 580.]

§ 706. HEARING, HOW CONDUCTED.] The board shall thereupon hear the contest and decide all questions of law and fact involved. The burden of proof in each case shall be upon the petitioner and the hearing shall be confined to the grounds stated in the petition, but the board may in its discretion allow the petition to be amended. No ex parte affidavits shall be competent evidence at such hearing. No person shall be excused from testifying or from producing papers or documents at such hearing on the ground that such testimony will tend to criminate himself; but no person so testifying shall be liable to any suit or prosecution, civil or criminal, for any matters or causes in respect to which he shall be so examined or to which his testimony shall so relate. The board shall have the same power to compel the attendance of witnesses, as the district courts of this state possess, and nothing in this article contained shall be held to limit the power of the board to make such regulations as to the conduct of the proceedings as it may deem proper, not inconsistent with the provisions of this article, and the board shall have all powers necessary to the complete carrying out and performance of the authority conferred upon it by this article. [1892, Sp.; R. C. 1895, § 581.]

§ 707. DETERMINATION OF BOARD, HOW CERTIFIED.] The board shall determine in each case which of the parties to the proceedings is entitled to the office of elector, and shall cause such determination to be entered of record in such manner and form as it shall direct, and shall forthwith certify the same to the governor and secretary of state, and such determination so certified shall be final and conclusive that the person therein stated to have been elected is duly elected, and the governor shall forthwith transmit to such person a certificate of his election, and every such cer-

tificate shall recite that it is issued pursuant to a determination under this article, referring to this article. The court shall so arrange and conduct the trial of such contest that a final determination thereof shall be rendered at least six days prior to the second Monday in January next following. [1892, Sp.; R. C. 1895, § 582.]

§ 708. FAILURE OF PETITIONER TO APPEAR, EFFECT OF.] If any petitioner shall fail to appear and prosecute his petition against any person who has been made a respondent thereto, according to the requirements of this article and of such rules as the board shall make, the board shall determine that he has so failed, and shall cause such determination to be entered of record in such manner and form as it shall direct, and shall forthwith certify such determination to the governor and secretary of state; and the same shall be a final and conclusive bar to the claim of the petitioner against such respondent as fully and completely as if such claim had been heard and determined on its merits, and the governor shall issue such certificate as provided in the preceding section. [1892, Sp.; R. C. 1895, § 583.]

§ 709. COSTS, TAXATION OF.] The costs of all proceedings under this article shall be taxed under the direction of the board, and if two or more cases are heard together the costs shall be apportioned as the board shall direct, and in each case in which the petitioner shall not finally prevail the costs shall be paid by him, and in each case in which the petitioner shall finally prevail the costs shall be borne by the state, in which case the board shall certify the costs to the state auditor, who shall issue his warrant upon the state treasurer in payment of the same. [1892, Sp.; R. C. 1895, § 584.]

§ 710. FINAL HEARING, HOW DETERMINED.] The final hearing and determination under this article shall be by a majority of the board, but any single member may exercise any other of the powers given to the board by this article. [1892, Sp.; R. C. 1899, § 585.]

§ 711. MILEAGE AND PER DIEM OF MEMBERS OF BOARD.] The members shall be entitled to receive for their travel and attendance the sum of six dollars per day and ten cents per mile for each mile necessarily traveled, to be paid from the state treasury upon the warrant of the state auditor. [1892, Sp.; R. C. 1899, § 586.]

#### ARTICLE 15.—CONTEST OF LEGISLATIVE ELECTIONS.

§ 712. NOTICE OF CONTEST IN LEGISLATIVE ELECTIONS.] When any person intends to contest the election of a mem-

ber of the legislative assembly, he may, within ten days after the result of such election shall have been determined by the board of canvassers, give notice in writing to the member whose seat he desires to contest of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest. [R. C. 1895, § 587.]

§ 713. ANSWER TO NOTICE.] Any member elect, upon whom the notice mentioned in the proceeding section may be served, shall within ten days after the service thereof answer such notice admitting or denying the facts alleged therein and stating specifically any other grounds upon which he rests the validity of his election and shall serve a copy of his answer upon the contestant or his attorney. All allegations contained in the notice and not denied in the answer shall be taken as admitted. [R. C. 1895, § 588.]

§ 714. TESTIMONY TAKEN, WHEN.] In all such contests the contestant may begin taking testimony as soon as the notice of contest is served and the person whose election is contested may commence taking testimony as soon as his answer is served, and both parties may continue to take testimony for ten days after the time for serving the answer has expired, after which time the contestant may take testimony in rebuttal only for five days. [R. C. 1895, § 589.]

§ 715. NOTICE TO TAKE DEPOSITIONS SAME AS IN CODE CIVIL PROCEDURE.] Depositions taken under the provisions of this article may be taken in the manner and upon the notice prescribed in the code of civil procedure for taking depositions in civil actions. [R. C. 1895, § 590.]

§ 716. TESTIMONY TAKEN AT ONLY TWO PLACES AT A TIME.] Testimony taken under the provisions of this chapter shall not be taken at more than two places at the same time by either party, except by order of the court or the judge thereof. [R. C. 1895, § 591.]

§ 717. SUBPOENA TO COMPEL ATTENDANCE OF WITNESSES.] When either party to such contest desires to take testimony therein, he may apply to any notary public or justice of the peace in the county where the testimony is to be taken for a subpoena to compel the attendance of witnesses, and the officer to whom such application is made shall thereupon issue his subpoena directed to such witnesses as shall be named to him, requiring their attendance before him at such time and place as may be named in the subpoena to give testimony relating to such contest. [R. C. 1899, § 592.]

§ 718. DEPOSITIONS TAKEN WITHOUT NOTICE ON STIPULATION.] It shall be competent for the parties to such con-



test by consent in writing to take depositions without notice. Such written consent shall be returned with the depositions. [R. C. 1895, § 593.]

§ 719. SUBPOENA SERVED, HOW.] Witnesses may be subpœnæd in the manner provided in the code of civil procedure. [R. C. 1895, § 594.]

§ 720. ATTENDANCE COMPELLED ONLY IN COUNTY.] No witness shall be required to attend an examination out of the county in which he resides or is served with a subpœna. [R. C. 1899, § 595.]

§ 721. FAILURE TO ATTEND AND TESTIFY. PENALTY.] Any person who, having been summoned in the manner above prescribed, refuses or neglects to attend and testify in obedience to such subpœna, unless prevented by sickness or unavoidable necessity, shall forfeit the sum of twenty dollars to be recovered with costs of suit in a civil action in the name and for the use of the party at whose instance the subpœna was issued, and such person is also guilty of a misdemeanor. [R. C. 1895, § 596.]

§ 722. DEPOSITIONS OF NONRESIDENT WITNESSES MAY BE TAKEN.] Depositions of witnesses residing outside of the district and beyond the reach of a subpœna may be taken before any officer authorized to take testimony in a civil action. [R. C. 1899 § 597.]

§ 723. EXAMINATION OF WITNESSES.] All witnesses, who attend in obedience to a subpœna or who attend voluntarily at the time and place appointed, of whose examination notice has been given as provided in this article, shall then and there be examined on oath by the officer who issued the subpœna, or in case of his absence, by any other officer authorized to issue such subpœna or by the officer before whom the depositions are to be taken by written consent, as the case may be, touching all such matters respecting the election being contested as shall be proposed by either of the parties or attorneys. [R. C. 1899, § 598.]

§ 724. TESTIMONY MUST BE CONFINED TO ISSUE.] The testimony to be taken by either party to such contest shall be confined to the issues raised by the notice of contest and answer thereto. [R. C. 1895, § 599.]

§ 725. TESTIMONY MUST BE REDUCED IN WRITING.] The officer shall cause the testimony of the witnesses to be reduced to writing in his presence and in the presence of the parties or their attorneys, if in attendance, and each witness shall sign his name at the end of his testimony. [R. C. 1895, § 600.]

§ 726. PRODUCTION OF PAPERS MAY BE REQUIRED.] The officer before whom any deposition is taken shall have power to require the production of papers, and, on the refusal or neglect of any person to produce and deliver up any papers in his possession pertaining to such election, or to produce certified or sworn copies of the same in case they are official papers, such person shall be liable to all the penalties prescribed in section 721. All papers thus produced and all certified or sworn copies of official papers shall be transmitted by the officer, with the testimony of the witnesses, to the secretary of state for the use of the legislative assembly. [R. C. 1899, § 601.]

§ 727. ADJOURNMENTS.] The taking of the testimony may, if so stated in the notice, be adjourned from day to day. [R. C. 1899, § 602.]

§ 728. PAPERS TO BE ATTACHED TO DEPOSITION.] The notice to take depositions with the proof or admission of service thereof and a copy of the subpoena, where any has been served, shall be attached to the deposition when completed together with a copy of the notice of contest and answer, which shall be annexed to the deposition taken and transmitted with them to the secretary of state. [R. C. 1899, § 603.]

§ 729. TESTIMONY TO BE FORWARDED TO THE SECRETARY OF STATE.] All officers taking testimony to be used in a contested election case shall, when the taking of the same is completed, immediately certify to the same as required by law in other cases, and inclose the same in a sealed envelope and after indorsing on such envelope the title of the contents forward the same by mail to the secretary of state; and the secretary of state is authorized to open the same at the instance of either party or his attorney. [R. C. 1895, § 604.]

§ 730. FEES OF OFFICERS AND WITNESSES.] Each witness attending in obedience to a subpoena as herein provided, and all officers employed in taking testimony in such contested election cases or serving any subpoena or notice herein authorized shall be entitled to receive, from the party at whose instance the service or attendance shall have been performed, such fees as are allowed for similar services in civil actions in courts of record in this state. [R. C. 1895, § 605.]

§ 731. NO LEGISLATIVE EXPENSE.] No payment shall be made by the legislative assembly out of its contingent fund or otherwise to either party to such contest for expenses incurred in prosecuting or defending the same. [R. C. 1899, § 606.]

## ARTICLE 16.—REGISTRATION OF VOTERS.

§ 732. REGISTRATION OF VOTERS. WHEN BOARD SHALL MEET.] The persons authorized by law or appointed pursuant to any village or city ordinance to act as judges of election in any village, city, ward or other election precinct in this state shall, together with the inspector of election for such precinct, constitute a board of registry for their respective precincts, and they shall meet on Tuesday, two weeks preceding any general election, or annual city election, at nine o'clock a. m., and make a list, as hereinafter prescribed, of all persons qualified to vote at the ensuing election in such election precinct, which list when completed shall constitute and be known as the register of electors of such precinct. [1881, ch. 122, § 1; 1899, ch. 133; R. C. 1899, § 607.]

§ 733. REGISTERS, WHAT TO CONTAIN.] Such registers shall each contain a list of the qualified electors of such precinct, alphabetically arranged according to their respective surnames, so as to show in one column the name at full length, and in another column the residence by the number of the dwelling, if there is a number, and the name of the street or other location of the dwelling place of each elector. It shall be the duty of such board to enter in such lists the names of all persons residing in its election precinct whose names appear on the poll list made in such precinct at the last preceding election, the number of the dwelling and name of the street or other location if the same is known to or can be ascertained by such board, and for this purpose the board is authorized to take from the office in which it is filed the poll list made and filed by the judges or inspector of such precincts at the election held next prior to the making of such register. In making such register the board shall enter therein in addition to the names on the poll list, the names of all other persons who are known to them to be qualified electors in such precinct, or shall be proved to be qualified electors by the oath of the person applying to be registered, or by the oath of some elector whose name has been already placed upon the poll list; and the names of all persons on the poll list who have died or removed from the precinct shall be omitted from the register. It shall also be the duty of said board to enter in such register, alphabetically in separate columns as provided herein, the names of all women entitled to vote for candidates for school offices and on questions pertaining solely to school matters in all cities of three thousand inhabitants or over. Such board shall complete as far as practicable such register on the day of their meeting afore-



said, and shall make two copies thereof and certify the register and each of the copies to be a true list of the voters in its precinct so far as the same are known, within ten days thereafter; such original list, together with the list taken from the office aforesaid, shall be filed with the board and shall be kept by one of the judges or by the inspector and carefully preserved for its use on the day hereinafter mentioned for the revision and correction of the same. One copy of such list shall immediately after its completion be posted in some public and conspicuous place at or near the place where the last preceding election in such precinct was held, and be accessible to any elector who may desire to examine the same or make copies thereof. Any person who shall tear down, deface or destroy any list so posted, is guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the jail not exceeding five years, or by such fine and imprisonment. [1911, chap. 127.]

§ 734. REGISTRY LIST IN NEW PRECINCT.] In case any election precinct shall be formed by the organization of a new precinct or by division of any village, ward or precinct, or the incorporation of a city or village, the judges or the inspector of elections in the new precinct thus formed, may make a registry of electors on the day prescribed by this article in such manner as a majority of them may direct, and for this purpose they may make a list or cause to be made a certified copy of the poll list or lists of the precinct or precincts in which such new precinct was situated, or they may dispense with such list and proceed to make a register of electors from the best means at their command. Such lists shall only embrace the names of such persons as are known to them to be electors in their precinct or proved to be such by the oath of an elector whose name has already been entered upon such register, or by the oath of the applicant; and such list shall be preserved and a copy posted up as prescribed in the preceding section and shall be revised and corrected in the same manner as other lists are corrected. [1881, ch. 122, § 3; R. C. 1895, § 609.—

§ 735. BOARD OF REGISTRATION, SECOND MEETING.] Such boards shall again meet on Tuesday of the week preceding such election in their respective election precincts at the place designated for holding the polls for the purpose of revising, correcting and completing such lists, and for this purpose they shall meet at 8 o'clock a. m., and remain in session until eight o'clock p. m. [1881, ch. 122, § 4; R. C. 1899, § 610.]

§ 736. PROCEEDINGS OF BOARD TO BE PUBLIC.] The proceedings of such board shall be open, and all persons residing and entitled to vote in such precincts shall be entitled to be heard by such board in relation to corrections or additions to such register, and the judges or the inspector are empowered to administer oaths for this purpose. One of the lists so kept by the judges or inspector as aforesaid shall be used by them on the day of making corrections or additions for the purpose of completing the registry of such precinct. [1881, ch. 122, § 6; R. C. 1899, § 611.]

§ 737. REGISTRY LIST TO BE REVISED.] It shall be the duty of such board at its meeting for revising and correcting such lists to erase therefrom the name of any person inserted therein who shall be proved by the oath of two legal voters of such precinct to the satisfaction of such board to be non-residents of such precinct or otherwise not entitled to vote therein at the election then next to be held. Any elector residing in such precinct and entitled to vote therein may appear before such board and require his name to be recorded in such list. Any person requiring his name to be recorded shall make the same statement as to street and number thereof and where he resides which is required by the provisions of this article of persons offering their votes at the polls, and shall be subject to the same penalties for refusing to give such information or for falsely giving the same, and shall also be subject to challenge either by the judges or the inspector or by any elector whose name appears on such list, and the same oath may be administered by the judges or inspector or other duly authorized person as is provided in case of persons offering to vote at an election; and in case no challenge is made to any person requiring his name to be registered or in case of challenge, if such person makes oath as aforesaid, then the name of any such person shall be added to such list. [1881, ch. 122, § 7; R. C. 1899, § 612.]

§ 738. RECEIVING VOTE FROM PERSON NOT ON REGISTRY LIST.] After such lists shall have been fully completed such board shall within two days cause two copies of the same to be made, each of which shall be certified by it to be a correct list of the qualified electors of the precinct so far as known, which list the judges or inspector shall carefully keep and preserve for use on election day; and at the opening of the polls the judges or inspector shall designate two of their number to check the name of each voter voting in such precinct whose name is on the register. No vote shall be received at any election in this state if the name of the person offering such vote is not on the register,

unless such person shall furnish to the judges of election his affidavit, stating therein that he is a resident of such precinct, giving his place of residence and length of time he has resided there, and also prove by the oath of a householder and registered voter of the precinct that he knows such person to be a resident therein, giving his place of residence. Such oath may be administered by the inspector or one of the judges of election, or any other person authorized to administer oaths, but no person shall receive any compensation for administering such oath. Such oath shall be preserved and filed by the judges of election. Any person may be challenged and the same oath required as is now or hereafter may be prescribed by law. Provided, that nothing herein contained shall be construed as rendering void the vote of any duly qualified elector whose vote has been received contrary to the provisions of this section; but the person claiming the benefit of such vote in any action or judicial proceeding shall have the burden of establishing the fact that such vote was cast by a duly qualified elector. [1911, chap. 128.]

§ 739. DUTY OF CLERKS OF ELECTION.] The clerks of election in each precinct shall enter on the poll list kept by them in columns prepared for that purpose, opposite the name of each person voting, the same statement or minute heretofore required of the board in making the registry; but such entry shall not be made by them if the register correctly contains the name and residence of such voter; and in all cases such clerk shall enter in a column opposite the name of each person not registered the words "not registered." And the clerks in case the name of such voter is not registered shall enter in the appropriate columns of the poll list the name and residence as in other cases. Any person making a false statement as to his residence or dwelling place shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than two hundred dollars nor more than five hundred dollars, or imprisonment in the penitentiary not exceeding two years, at the discretion of the court. [1881, ch. 122, § 9; R. C. 1895, § 614.]

§ 740. REGISTER MUST BE FILED.] Within three days after the canvass of the votes the register so kept and checked as aforesaid shall be filed with the county auditor of the county in which such precinct is situated, and shall be retained and carefully preserved therein as a public record. [1881, ch. 122, § 10; R. C. 1899, § 615.]

§ 741. REGISTERS TO REMAIN PUBLIC RECORD.] Such registers shall at all times be open to public inspection without charge. [1881, ch. 122, § 11; R. C. 1895, § 616.]



§ 742. COMPENSATION OF MEMBERS OF BOARD OF REGISTRY.] The members of the board of registry shall receive the same compensation as is now or may hereafter be allowed by law, not to exceed two dollars per day. [1881, ch. 122, § 12; R. C. 1899, § 617.]

§ 743. BOARD HAS POWER TO PRESERVE ORDER.] The members of such board shall have and exercise the same powers in preserving order at their meetings under this article as are given to judges of election for preserving order on election day, and vacancies may be filled in such board in the same manner as vacancies of judges are now filled at elections. [1881, ch. 122, § 13; R. C. 1899, § 618.]

§ 744. PENALTY FOR REGISTERING IN MORE THAN ONE PRECINCT.] Any person who shall cause his name to be registered in more than one election precinct, or who shall cause his name to be registered knowing that he is not a qualified voter in the precinct where such registry is made, or who shall falsely personate any registered voter, and any person aiding or abetting any person in any manner in either of such acts, shall be punished for each and every offense by imprisonment in the penitentiary for not less than two nor more than five years. If any member or officer of such board shall willfully violate any of the provisions of this article, or be guilty of any fraud in the execution of the duties of his office, he shall be punished by imprisonment in the penitentiary for a period not exceeding two years. [1881, ch. 122, § 14; R. C. 1899, § 619.]

§ 745. COUNTY AUDITOR TO PROVIDE BLANK REGISTERS AND BLANKS.] The county auditors shall provide the board of registry of the several precincts within their respective counties with the necessary blank registers and blanks at the expense of their respective counties. [1887, ch. 48, § 1; R. C. 1899, § 620.]

§ 746. WHAT CITIES GOVERNED BY THIS ARTICLE.] All cities and villages containing eight hundred or more inhabitants shall be subject to the provisions of this article. To determine the number of inhabitants the number of votes cast at the last preceding general election shall be multiplied by five. [1899, ch. 133; R. C. 1899, § 621.]

## MUNICIPAL ELECTIONS

§ 2742. TIME AND PLACE OF ELECTION.] There shall be an annual election for elective officers herein provided, held on the first Monday in April of each year, at such place or places in each ward as the council shall designate; except

in cities where aldermen are elected at large, the council shall designate one polling place only. The polls shall be kept open continually from eight o'clock in the forenoon until five o'clock in the afternoon, and no longer, and ten days' previous notice shall be given by the council of the time and place of holding such election, by publication in at least two of the city papers published in said city, if two shall be published therein. [1897, ch. 40, § 4; R. C. 1899, § 2251; 1905, ch. 62, § 109.]

§ 2743. ELECTION DISTRICTS AND PRECINCTS.] Each city in which aldermen are elected at large, shall constitute an Election district, and in all other cities each ward shall constitute an Election district; but whenever the number of legal voters in any ward shall exceed three hundred, the council may by ordinance divide such ward into two or more precincts for voting purposes, and whenever the number of legal voters in any two or more contiguous wards shall not exceed one hundred as determined by the last annual election, the council may, by ordinance, consolidate such two or more wards into one precinct for voting purposes; or if the council so elects, in any city of less than four hundred voters as determined by the last annual election, the council may by ordinance consolidate all the wards of such city into one precinct for voting purposes: provided, however, that in city elections separate ballot boxes and poll books shall be provided and kept for each ward; provided, that such ordinance shall be passed and take effect before the time of giving notice of an election; and such wards and precincts shall constitute election districts for all state, county, city and school election. [1911, chap. 65.]

§ 2744. QUALIFIED VOTERS. REGISTRATION.] Every legal voter of the county in which such city is situated, who shall have been a resident of the city ninety days next preceding a city election is declared a citizen of said city, and shall be entitled to vote at all city elections; provided, that the city council shall provide for the registration of all voters as required by the laws of the state in all cities of more than four hundred voters as determined by the last annual election, and in cities of four hundred voters or less, the city council may provide for the registration of all voters in accordance with the laws of the state at one polling place, and separate registration lists shall be provided and kept for each ward, and no person shall be entitled to vote in any other place than the ward or precinct where he resides, except where otherwise provided by law. [1911, chap. 66.]

§ 2745. EFFECT OF ELECTION.] This chapter shall in no case effect the term of office of any officer heretofore elected or appointed in any city, but all such officers shall hold their offices during the term for which they were originally elected or appointed. [1887, ch. 73, art. 13, § 4; R. C. 1899, § 2254; 1905, ch. 62, § 112.]

§ 2746. OATH AND DUTIES OF JUDGES AND CLERKS OF ELECTION.] The manner of conducting and voting at elections to be held under this chapter, and contesting the same, the keeping of poll lists, and canvassing the votes, shall be the same, as nearly as may be, as in the case of the election of county officers under the general laws of this state. The judges of election shall appoint clerks when necessary to fill vacancies, and the judges and clerks shall take the same oath and have the same powers and authority as the judges and clerks of general state elections. After the closing of the polls the ballots shall be counted, and the returns made out, and returned under seal to the city auditor, within two days after the election, and thereupon the city council shall examine and canvass the same, and declare the result of the election and cause a statement thereof to be entered on its journal. [1887, ch. 73, art. 13, § 5; R. C. 1899, § 2255; 1905, ch. 62, § 113.]

§ 2747. WHAT ELECTS. TIE, HOW DECIDED.] The person having the highest number of votes for any office shall be declared elected. In case of a tie in the election of any city officer, it shall be determined by lot, in the presence of the city council, in such manner as it shall direct, which candidate or candidates shall hold office. [1887, ch. 73, art. 13, § 7; R. C. 1899, § 2256; 1905, ch. 62, § 114.]

§ 2748. CITY AUDITOR TO NOTIFY OFFICERS ELECTED OR APPOINTED.] It shall be the duty of the city auditor, within five days after the result of the election is declared or appointment made to notify all persons elected or appointed to office of their election or appointment, and unless such persons shall respectively qualify within ten days after such notice, the office shall become vacant. [1887, ch. 73, art. 13, § 8; R. C. 1899, § 2257; 1905, ch. 62, § 115.]

§ 2749. NEW ELECTION ON FAILURE TO QUALIFY.] If there is a failure to elect an officer herein required to be elected, or the person elected should fail to qualify, or for any other cause that may arise, the city council may forthwith order a new election, therefor, and in all cases, when necessary for the purposes of this chapter, may call special elections, canvass the returns thereof, and provide by ordinance for the mode of conducting the same; and shall give notice of



such special elections, in which shall be stated the questions to be voted upon, and cause such notices to be published for the same length of time, and in the same manner as is required in the case of regular annual elections in such city, unless herein otherwise provided. [1887, ch. 73, art. 13, § 9; R. C. 1899, § 2258; 1905, ch. 62, § 116.]

§ 2750. WHEN TERM OF OFFICE COMMENCES.] The term of each officer elected under this chapter shall commence on the third Tuesday of April of the year for which he was elected. [1887, ch. 73, art. 13, § 10; R. C. 1899; § 2259; 1905, ch. 62, § 117.]

§ 2751. WHEN OFFICE DEEMED VACANT.] Any officer removing from the city or ward for which he is elected, or any officer who shall refuse or neglect for ten days after notice of his election or appointment to enter upon the discharge of the duties of his office, shall be deemed to have vacated his office and the city council shall proceed to fill the vacancy as herein prescribed. [1887, ch. 73, art. 13, § 11; R. C. 1899, § 2260; 1905, ch. 62, § 118.]

§ 14. ELECTIONS BIENNIAL.] Biennial municipal elections in all cities shall be held on the first Tuesday in April at such place or places as the board of city commissioners shall designate. The polls of such election shall be opened at eight o'clock a. m. and closed at five o'clock p. m. Ten days' previous notice of the time and place of such election and of the officers to be elected shall be given by the city auditor by publication in the official city paper and by posting written or printed notices in three public places in the city; but the failure to give such notice shall not invalidate such election. In all other respects such election shall be conducted as prescribed by general election laws, except that no registration of voters shall be required unless provided for by ordinance. [1907, chap. 45.]

§ 1. RECALL.] The holder of any elective office in cities which may adopt or have adopted the commission plan of government as provided in chapter 45 of the laws of 1907, may be removed at any time by the electors qualified to vote for a successor or such incumbent, the procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least twenty-five per centum of the entire vote for all candidates for the office of President cast at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed, shall be filed with city auditor, which peti-

tion shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition the city auditor shall examine, and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the board of city commissioners shall allow extra help for that purpose, and he shall attach to said petition his certificate, showing the result of said examination. If by the auditor's certificate the petition is shown to be insufficient it may be amended within ten days from the date of said certificate. The auditor shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition of the same effect. If the petition shall be deemed to be sufficient, the auditor shall submit the same to the board of city commissioners without delay. If the petition shall be found to be sufficient, the board of city commissioners shall order and fix a date for holding the said election, not less than thirty days nor more than forty days from the date of the auditor's certificate to the board of city commissioners, that a sufficient petition is filed. The board of city commissioners shall make or cause to be made publication of notice and all arrangements for holding such election, and the same shall be conducted, returned, and the result thereof declared, in all respects as are other city elections. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the

office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office, the same method of removal shall be cumulative and additional to the methods heretofore provided by law. [1911, chap. 67.]

§ 14. ELECTIONS BIENNIAL.] Biennial Municipal elections in all cities shall be held on the first Tuesday in April at such place or places as the board of city commissioners shall designate. The polls of such election shall be opened at eight o'clock A. M. and closed at five o'clock P. M. Ten days' previous notice of the time and place of such election and of the officers to be elected shall be given by the city auditor by publication in the official city paper and by posting written or printed notices in three public places in the city; but the failure to give such notice shall not invalidate such election. In all other respects such elections shall be conducted as prescribed by general election laws, and for all general and special elections held under the provisions of this act in the city, for the city officers and for other purposes, the Board of City Commissioners shall, at least ten days before any election is held, appoint in each precinct established in the city, one inspector and two judges of election. [1911, chap. 77.]

§ 15. COMMISSIONERS. HOW ELECTED.] The president of the board of city commissioners and four city commissioners shall be elected by the legal and qualified voters in the city, in the following manner: The president of the board of city commissioners and the four city commissioners shall be elected at large and not by wards. Each voter shall be allowed to cast but one vote for the candidate for the office of president of the board of city commissioners. Each voter shall be allowed as many votes for the candidates of the office of city commissioners as there are commissioners to be elected, such votes to be distributed among the candidates as the voter shall see fit, but no voter shall be allowed to cast more votes than candidates to be elected. [1911, chap. 77.]

§ 34. VACANCIES. ELECTIONS TO FILL.] Special elections to fill vacancies or for any other purpose shall be held and conducted by the inspectors and judges of election of the several precincts in the same manner and the returns thereof shall be made in the same form and manner as of the general municipal elections, and within such time as is prescribed by law. [1911, chap. 77.]

§ 38. REMOVAL FROM OFFICE.] Every person elected to any office may be removed therefrom by a majority vote of



all the members of the board of city commissioners,( but no such officer shall be removed except for cause nor unless charges are preferred against him and an opportunity given him to be heard in his defense. The board of city commissioners may compel the attendance of witnesses and the production of papers when necessary for the purpose of such hearing, and shall proceed within ten days after the charges are filed with the city auditor to hear and determine the case upon its merits. The president of the board of city commissioners may suspend any officer against whom charges have been preferred until the disposition of the same and appoint any officer to fill the vacancy temporarily until the charges have been disposed of. Any officer appointed by the president of the board of city commissioners without confirmation under the provisions of this chapter may be removed by him when he deems it for the best interest of the city. [1911, chap. 77.]

§ 1. NO PARTY BALLOT.] In all petitions to be filed by or in behalf of candidates for nomination to a public office in any incorporated city, town or village in this state, no reference shall be made to a party ballot or to the party affiliation of such candidates; provided, however, it shall be allowed any such candidate to state, or have stated, in all such petitions, after his name, in not more than twenty words, any particular principle, or principles of local administrative policy or policies he stands for and seeks election to promote. [1913, chap. 73.]

§ 2. NOMINATIONS HOW MADE.] A candidate for any public office in an incorporated city, town or village, may be nominated by filing with the city auditor, at least twenty days prior to the holding of the election, a petition signed by not less than ten per cent of the qualified electors residing within the ward or precinct in and for which such officer or officers are to be elected: provided, however, that in cities operating under the commission plan the required petition may be signed by the electors at large residing within such city and provided further, that in no case shall more than three hundred signatures be required and such signatures may be on separate sheets of paper. No elector shall sign more than one petition for the same office. Each signer of such petition shall add to his name his post office address, giving the street and number of his residence. It shall be the duty of the auditor or clerk of such city, town or village, as the case may be, to place only the names of the person or persons so nominated upon the ballot, with the statement after or opposite the name of the candidate, of the principle or principles which he seeks to

promote, in not more than twenty words and as stated in the petition or petitions filed by or on behalf of such candidate, and in such manner as to readily inform the voter of the policy or policies upon which such candidate seeks election; and to arrange the offices upon the ballot in the order in which they are named in the statutes. The arrangements of the names of the candidates upon the ballot shall be determined by the lot by such auditor or clerk in the presence of the candidates or their representatives at noon on the day following the last day for the filing of nomination papers. [1913, chap. 73.]

§ 1. RECALL.] The holder of any elective office in cities, which may adopt or have adopted the commission plan of government under any of the laws of this state applicable thereto, may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least thirty per centum of the entire vote for all candidates for the office of president of the city commission cast at the last preceding general municipal election, demanding an election of a successor of the person sought to be removed shall be filed with the city auditor, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not all be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of each such paper shall make oath before an officer competent to administer oaths that the statements therein made are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition the city auditor shall examine, and from the voter's register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the board of city commissioners shall allow extra help for that purpose, and he shall attach to said petition his certificate showing the result of said examination. If by the auditor's certificate the petition is shown to be insufficient it may be amended within ten days from the date of said certificate. The auditor shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition of the same effect. If the peti-

tion shall be deemed to be sufficient, the auditor shall submit the same to the board of city commissioners without delay. If the petition shall be found to be sufficient, the board of city commissioners shall order and fix a date for holding the said election, not less than thirty days nor more than forty days from the date of the auditor's certificate to the board of city commissioners, that a sufficient petition is filed. The board of city commissioners shall make or cause to be made publication of notice and all arrangements for holding such election, and the same shall be conducted, returned, and the result thereof declared in all respects as are other city elections. The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the clerk shall place his name on the official ballot, without nomination. In any such removal election, the candidate receiving the highest number of votes shall be declared elected. At such election if some other person than the incumbent receives the highest number of votes, the incumbent shall thereupon be deemed removed from the office upon qualification of his successor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. This said method of removal shall be cumulative and additional to the methods heretofore provided by law. [1913, chap. 79.]

§ 2. INITIATIVE.] Any proposed ordinance may be submitted to the board of city commissioners of the city equal in number to the percentage hereinafter required. The signatures, verification, authentication, inspection certification, amendment and submission of such petition shall be the same as provided for petitions under Section one (1) hereof. If the petition accompanying the proposed ordinance be signed by electors equal in number to fifteen per centum of the votes cast for all candidates for president of the city commission at the last preceding general municipal election and contains a request that the said ordinance be submitted to a vote of the people if not passed by the board of city commissioners, such board of city commissioners shall either

(a) Pass said ordinance, without alteration, within twenty days after attachment of the auditor's certificate to the accompanying petition, or

(b) Forthwith, after the auditor shall attach to the petition accompanying such ordinance his certificate of suffi-



ciency, the board of city commissioners shall call a special election, unless a general municipal election is fixed within ninety days thereafter, and at such special or general municipal election, if one is so fixed, such ordinance shall be submitted without alteration to the vote of the electors of said city. But if the petition is signed by not less than twenty-five per centum of the electors as above defined, then the board of city commissioners shall within twenty days, pass said ordinance without change, or submit the same at the next general city election occurring not more than thirty days after the auditor's certificate of sufficiency is attached to said petition. The ballots used when voting upon said ordinance shall contain these words: "For the ordinance," (stating the nature of the proposed ordinance) and "Against the ordinance" (stating the nature of the proposed ordinance.) If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall thereupon become a valid and binding ordinance of the city, and any ordinance proposed by petition and which shall be adopted by a vote of the people, cannot be repealed or amended except by a vote of the people as long as the city is under the commission form of government.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section, but there shall not be more than one special election in any period of six months for such purposes.

The board of city commissioners may submit a proposition for the repeal of any such ordinance, or for amendments thereto, to be voted upon at any succeeding general city election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall be thereby repealed or amended accordingly. Whenever any ordinance or proposition is required by this Act to be submitted to the voters of the city at any election, the city auditor shall cause such ordinance or proposition to be published once in each of the daily newspapers published in said city; such publication to be not more than twenty or less than five days before the submission of such proposition or ordinance to be voted on. [1913, chap. 79.]

§ 3. REFERENDUM.] No ordinance passed by the board of city commissioners, except when otherwise required by the general laws of the state or by the provisions of this Act, except an ordinance for the immediate perservation of the public peace, health or safety, which contains a statement of its urgency, and is passed by a four-fifths vote of the board of city commissioners, shall go into effect before

ten days from the time of its final passage, and if during said ten days a petition signed by electors of the city equal in number to at least ten per centum of the entire votes cast for all candidates for president of the city commission at the last preceding general municipal election at which a president of the city commission was elected, protesting against the passage of such ordinance, to be presented to the board of city commissioners, the same shall thereupon be suspended from going into operation, and it shall be the duty of the board of city commissioners to reconsider such ordinance, and if the same is not entirely repealed, the board of city commissioners shall submit the ordinance as is provided by Sub-Section (b) of Section two of this Act, to the vote of the electors of the city, either at the general election or at a special municipal election to be called for that purpose; and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on the same shall vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of said Section two, except as to the percentage of signers, and be examined and certified to by the auditor in all respects as therein provided. [1913, chap. 79.]

§ 4. FORM OF PETITION.] Petitions provided for in this Act shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides, his age and length of residence in the city. It shall also be accompanied by the affidavit of one or more legal voters of the city, stating that the signers thereof were, at the time of signing, legal voters of said city, and the number of signers at the time the affidavit was made. [1913, chap. 79.]

## TOWNSHIP ELECTIONS

§ 3061. ANNUAL TOWNSHIP MEETING, WHEN HELD.] The citizens of the several townships of this state, qualified to vote at general elections, shall annually assemble and hold township meetings in their respective townships, on the third Tuesday in March at such place in each township as the electors thereof at their annual township meetings from time to time appoint; and notice of the time and place of holding such meetings shall be given by the township clerk, by posting up written or printed notices in three of the most public places in such township at least ten days prior to such meetings; provided, that before any change of place of holding meetings is made, notice of such contemplated change may be given by any member of the township board

to the township clerk, who shall in his regularly printed or written notices as above provided, incorporate the special notice of the contemplated change of place of holding such meetings. [1899, ch. 159; R. C. 1899, § 2540; 1901, ch. 203.]

Township election day not legal holiday. State v. Currie, 8 N. D. 545, 80 N. W. 475.

§ 3062. TOWNSHIP OFFICERS, WHEN ELECTED. TERM OF OFFICE.] There shall be elected at the annual township meeting in each township one supervisor for the term of three years, one township clerk, one treasurer, one assessor, one overseer of highway for each road district in such township, each for the term of one year, and two justices of the peace and two constables for the term of two years, but justices of the peace and constables shall be elected only once in two years except to fill vacancies. At the first annual township meeting in each township after the taking effect of this article there shall be elected at large for such township three supervisors, one to serve until the first annual township meeting, one to serve until the second annual township meeting. The board of supervisors at their first regular meeting shall elect one of their members as chairman to serve for the period of one year. [1883, ch. 112, sub-ch. 1, § 12; R. C. 1899, § 2541; 1905, ch. 182.]

§ 3063. POWERS OF ELECTORS.] The electors of each township have power at the annual township meeting:

1. To determine the number of pound masters and the location of pounds.

2. To select such township officers as are required to be chosen.

3. To direct the institution or defense of actions in all controversies where such township is interested.

4. To direct such sums to be raised in such township for prosecuting or defending such actions as they may deem necessary.

5. To make all rules and regulations for impounding of animals.

6. To impose such penalties on persons offending against any rule or regulation established by the township, as they think proper, not exceeding ten dollars for each offense except as herein otherwise provided.

7. To apply such penalties, when collected, in such manner as they deem most conducive to the interests of the township. [1883, ch. 112, sub-ch. 7, § 13; R. C. 1899, § 2542.]



## ARTICLE 6.—SPECIAL MEETINGS.

§ 3078. SPECIAL MEETINGS HELD, WHEN.] Special meetings may be held for the purpose of electing township officers to fill vacancies that occur, also for the purpose of transacting any lawful business, whenever the supervisors, township clerk and justices of the peace, or any two of them, together with at least twelve freeholders of the township file in the office of the township clerk a written statement that a special meeting is necessary. [1883, ch. 112, sub-ch. 1, § 16; R. C. 1899, § 2543.]

§ 3079. CLERK TO GIVE NOTICE OF MEETING.] Each clerk with whom such statement is filed as required in the preceding section, shall record the same and immediately cause notice to be posted in five of the most public places in the township, giving at least ten days' notice of such special meeting; and if there is a newspaper published in the township he shall cause a copy of such notice to be published therein at least three days before the time appointed for such meeting. [1883, ch. 112, sub-ch. 1, § 17; R. C. 1899, § 2544.]

§ 3080. WHAT NOTICE MUST SPECIFY.] Each notice given for a special meeting shall specify the purpose for which it is to be held, and no other business shall be transacted at such meeting than such as is specified in such notice. If vacancies in office are to be filled at such meeting the notice shall specify in what office vacancies exist, how they occurred, who was the last incumbent and when the term of each office expires. [1883, ch. 112, sub-ch. 1, § 18; R. C. 1899, § 2545.]

## ARTICLE 7.—MODE OF CONDUCTING TOWNSHIP MEETINGS.

§ 3081. ORGANIZATION OF MEETING.] The electors present at any time between nine and ten o'clock in the forenoon of the day of the annual or special meeting shall be called to order by the township clerk, if present; in case he is not present then the voters may elect by acclamation one of their number chairman and three of their number judges of such meeting, who shall be duly sworn and be judges of the qualifications of township electors. They shall then proceed to choose one of their number to preside as moderator of such meeting. The clerk last before elected shall be clerk of the meeting and keep full minutes of its proceedings, in which he shall enter at length every order or direction and all rules and regulations made by the meeting. If the clerk is absent, then some person shall be elect-

ed to act as clerk of the meeting. [1883, ch. 112, sub-ch. 1, § 19; R. C. 1899, § 2546.]

§ 3082. DUTY OF MODERATOR. RECONSIDERATION OF VOTE.] At the opening of each meeting the moderator shall state the business to be transacted, and the order in which it shall be entertained, and no proposition to vote a tax shall be acted on out of the order of business as stated by the moderator, and no proposition to reconsider any vote shall be entertained at any meeting unless such proposition to reconsider is made within one hour from the time such vote was passed, or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the poll list at such election up to the time such motion is made; and all questions upon motions made at township meetings shall be determined by a majority of the electors voting; and the moderator shall ascertain and declare the result of the votes on each question. [1883, ch. 112, sub-ch. 1, § 20; R. C. 1899, § 2547.]

§ 3083. PROCLAMATION OF OPENING AND CLOSING POLLS.] Before the electors proceed to elect any township officer, proclamation shall be made of the opening of the polls by the moderator, and proclamation shall in like manner be made of the adjournment, and of the opening and closing of the polls, until the election is ended. [1883, ch. 112, sub-ch. 1, § 21; R. C. 1899, § 2548.]

§ 3084. WHO ARE VOTERS.] No person shall vote at any township meeting unless he is qualified to vote at general elections, and has been for the last ninety days an actual resident of the township wherein he offers to vote. [1883, ch. 112, sub-ch. 1, § 22; R. C. 1899, § 2549.]

§ 3085. CHALLENGE TO VOTER.] If any person offering to vote at any election or upon any question arising at such township meeting is challenged as unqualified, the judges of the meeting shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the township meeting. [1883, ch. 112, sub-ch. 1, § 23; R. C. 1899, § 2550.]

§ 3086. CERTAIN OFFICERS TO BE ELECTED BY BALLOT.] The supervisors, treasurer, township clerk, assessor, justices of the peace, constables and overseer of highways in each township shall be elected by ballot. All other officers, if not otherwise provided by law, shall be chosen either by yeas and nays or by a division, as the electors determine. [1883, ch. 112, sub-ch. 1, § 24; R. C. 1899, § 2551.]

§ 3087. ALL CANDIDATES ON ONE BALLOT.] When the electors vote by ballot all the candidates voted for shall be named on one ballot, which shall contain, written or printed, or partly written and partly printed, the names of the persons voted for and the offices to which such persons are intended to be chosen, and shall be delivered to one of the judges so folded as to conceal its contents. [1883, ch. 112, sub-ch. 1, § 25; R. C. 1899, § 2552.]

§ 3088. POLL LIST.] When the election is by ballot a poll list shall be kept by the clerk of the meeting, on which shall be entered the name of each person whose vote is received. [1883, ch. 112, sub-ch. 1, § 26; R. C. 1899, § 2553.]

§ 3089. JUDGES TO DEPOSIT BALLOTS.] When the election is by ballot one of the judges shall deposit the ballots in a box provided for that purpose. [1883, ch. 112, sub-ch. 1, § 27; R. C. 1899, § 2554.]

§ 3090. JUDGES TO CANVASS THE VOTES.] At the close of every election by ballot the judges shall proceed publicly to canvass the votes, which canvass when commenced shall continue without adjournment or interruption until the same is completed. [1883, ch. 112, sub-ch. 1, § 28; R. C. 1899, § 2555.]

§ 3091. MANNER OF CANVASSING.] The canvass shall be conducted by taking one ballot at a time from the ballot box and counting until the number of ballots is equal to the number of names on the poll list, and if there are any left in the box they shall be immediately destroyed; and the person having the greatest number of votes for any office shall be declared duly elected; provided, that if two or more persons have an equal and the highest number of votes for any office, the judges of election shall at once publicly by lot determine who of such persons shall be declared elected. If on opening the ballots two or more ballots are found to be so folded that it is apparent that the same person voted them the board shall immediately destroy the ballots. [1883, ch. 112, sub-ch. 1, § 29; R. C. 1899, § 2556.]

§ 3092. RESULT TO BE ANNOUNCED.] The canvass being completed, a statement of the result shall be entered at length by the clerk of the meeting in the minutes of its proceedings to be kept by him as before required, which shall be publicly read by him to the meeting, and such reading shall be deemed notice of the result of the election to every person whose name is entered on the poll list as a voter. [1883, ch. 112, sub-ch. 1, § 30; R. C. 1899, § 2557.]

§ 3093. MINUTES TO BE FILED.] The minutes of the proceedings of each meeting, subscribed by the clerk of said



meeting and by the judges, shall be filed in the office of the township clerk within two days after such meeting. [1883, ch. 112, sub-ch. 1, § 31; R. C. 1899, § 2558.]

§ 3094. DUTY OF TOWNSHIP CLERK.] The clerk of each township meeting shall, immediately after the votes are canvassed, transmit to each person elected to any township office, a notice of his election. [1883, ch. 112, sub-ch. 1, § 32; R. C. 1899, 2559; 1903, ch. 92.]

§ 3095. PROCEEDINGS WHEN MEETING FAILS TO ELECT.] In case any township refuses or neglects to organize and elect township officers at the time fixed by law for holding annual township meetings, twelve freeholders of the township may call a township meeting for the purpose aforesaid, by posting notices in three public places in such township, giving at least ten days' notice of such meeting; which notice shall set forth the time, place and object of such meeting; and the electors when assembled by virtue of such notice shall possess all the powers conferred upon them at the annual township meeting. In case no such notice is given as aforesaid within thirty days after the time for holding the annual meeting, the board of county commissioners of the county shall, on the affidavit of any freeholder of the township, filed in the office of the clerk of the board, setting forth the facts, at any regular or special meeting of the board, appoint the necessary township officers of such township, and the persons so appointed shall hold their respective offices until others are elected and qualified in their places, and shall have the same power and be subject to the same duties as if they had been duly elected. [1883, ch. 112, sub-ch. 1, § 33; R. C. 1899, § 2560.]

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## CRIMES AGAINST THE ELECTIVE FRANCHISE.

§ 8585. ELECTOR. GIVING OR RECEIVING BRIBE.] Every person, who, by force, threats, bribery or by offering to give or by giving a bribe to any elector, or by any corrupt means whatever, either directly or indirectly, attempts to influence or influences any such elector in giving his vote at any election; or who attempts to deter or deters him from giving his vote at such election, or attempts by any means whatever to awe, restrain, hinder or disturb any elector in the free exercise of the right of suffrage, or defrauds any elector at any such election by deceiving and causing such elector to vote for a different person for any

office than he intended or desired to vote for, or who, being an inspector, member of the board of election, judge or poll clerk of any election, while acting as such or during the continuance of an election, induces or attempts to induce any elector, either by menaces, or reward or promises thereof, to vote differently from what such elector intended or desired to vote, is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars and not less than one hundred dollars and by imprisonment in the county jail not exceeding one year and not less than three months. [Pen. C. 1877, § 56; R. C. 1895, § 6855.]

§ 8586. ELECTOR. ILLEGAL INFLUENCE.] Every person offering, giving or loaning to another any money or other thing of value, to induce him to influence any elector to vote in a particular way or for any person at any such election, shall be punished by a fine not exceeding five hundred dollars, or be imprisoned in the county jail not exceeding one year, or both such fine and imprisonment. [Pen. C. 1877, § 57; R. C. 1899, § 6856.]

§ 8587. BETTING UPON ELECTION, HOW PUNISHED.] Every person who makes, offers or accepts any bet or wager upon the result of any election, or upon the success or failure of any person or candidate, or upon the number of votes to be cast either in the aggregate or for any particular candidate, or upon the vote to be cast by any particular person or persons, or upon the decision to be made by any inspector of election, board of election or any member thereof, or any canvasser, board of canvassers or other election officers, or any question arising in the course of an election, or upon any event whatever depending upon the conduct or result of an election or upon the conduct or decision of any officer of an election or board of such officers, is guilty of a misdemeanor. [Pen. C. 1877, § 58; R. C. 1895, § 6857.]

§ 8588. OFFERS OF OFFICE, HOW PUNISHED.] Every person who, being a candidate at any election, offers or agrees to appoint or procure the appointment of any particular person or persons to office, as an inducement or consideration to any person to vote for, or to procure or aid in procuring the election of such candidate, is guilty of a misdemeanor. [Pen. C. 1877, § 59; R. C. 1899, § 6858.]

§ 8589. COMMUNICATING SAME.] Every person who, not being a candidate, communicates any offer made in violation of the last section, to any person, with intent to induce him to vote for or to procure or aid in procuring the elec-

tion of the candidate making the offer, is guilty of a misdemeanor. [Pen. C. 1877, § 60; R. C. 1899, § 6859.]

§ 8590. CONTRIBUTING MONEY FOR ELECTIONS, HOW PUNISHED. EXCEPTIONS.] Every person who, with intent to promote the election, either of himself or of any other person or candidate, either:

1. Furnishes, or engages to pay or deliver any money or property, for the purpose of procuring the attendance of voters at the polls, or for the purpose of compensating any person for procuring attendance of voters at the polls, except for the conveyance of voters who are sick, poor or infirm; or,

2. Furnishes, or engages to pay or deliver any money or property, for any purpose intended to promote the election of any candidate, except for the expenses of holding and conducting public meetings for the discussion of public questions, and of printing and circulating ballots, handbills and other papers, previous to such election, is guilty of a misdemeanor. [Pen. C. 1877, § 61; R. C. 1899, § 6860.]

§ 8591. DEFRAUDING ELECTOR IN HIS VOTE.] Every person who fraudulently alters the ballot of any elector or substitutes one ballot for another, or furnishes any elector with a ballot otherwise than as provided and authorized by law, or with a ballot containing more than the proper number of names, or who intentionally practices any fraud upon any elector to induce him to deposit a ballot as his vote and to have the same thrown out and not counted, or otherwise to defraud him of his vote, is guilty of a misdemeanor. [Pen. C. 1877, § 62; R. C. 1895, § 6861.]

§ 8592. OBSTRUCTING ELECTOR.] Every person who willfully and without lawful authority obstructs, hinders or delays any elector on his way to any poll where an election shall be held, is guilty of a misdemeanor. [Pen. C. 1877, § 63; R. C. 1899, § 6862.]

§ 8593. DOUBLE VOTING OR OFFER.] Every person who votes more than once at any election, or who offers to vote after having once voted, either in the same or in another election precinct or district shall be punished by fine not exceeding two hundred dollars, or by imprisonment in the county jail not exceeding one year. [Pen. C. 1877, § 64; R. C. 1899, § 6863.]

§ 8594. UNQUALIFIED VOTER.] Every person knowing himself not to be a qualified voter, who votes or offers to vote at any election, shall be punished by a fine not ex-



ceeding two hundred dollars, or by imprisonment in the county jail not exceeding six months. [Pen. C. 1877, § 65; R. C. 1899, § 6864.]

§ 8595. PROCURING UNQUALIFIED VOTE.] Every person who procures, aids, assists, counsels or advises another to give his vote, knowing that such person is disqualified, shall be punished by a fine not exceeding five hundred dollars, nor less than fifty dollars, and by imprisonment in the county jail not exceeding one year. [Pen. C. 1877, § 66; R. C. 1899, § 6865.]

§ 8596. ADVISING UNQUALIFIED VOTING.] Every person who procures or counsels another to enter any town, ward or election precinct or district for the purpose of giving his vote at an election, knowing that such person is not entitled so to vote, is guilty of a misdemeanor. [Pen. C. 1877, § 67; R. C. 1899, § 6866.]

§ 8597. VOTING IN WRONG PRECINCT OR DISTRICT.] Every person who, at any election, knowingly votes or offers to vote in any election precinct or district in which he does not reside, or in which he is not authorized by law to vote, is guilty of a misdemeanor. [Pen. C. 1877, § 68; R. C. 1899, § 6867.]

§ 8598. VOTING UNLAWFULLY AT TOWN MEETING.] Every person who votes at any annual township meeting, in a township in which he does not reside, or who offers to vote at any annual township meeting after having voted at an annual township meeting held in another township within the same year, is guilty of a misdemeanor. [Pen. C. 1877, § 741; R. C. 1899, § 6868.]

§ 8599. CONVICTED FELON. DENIED VOTE.] Every person who, having been convicted of any bribery or felony, thereafter offers to vote at any election without having been pardoned and restored to all the rights of a citizen, is guilty of a misdemeanor. [Pen. C. 1877, § 69; R. C. 1899, § 6869.]

§ 8600. UNAUTHORIZED REGISTRATION, HOW PUNISHED.] Every person who causes his name to be registered as that of an elector, upon any registry of voters authorized by law to be kept in any town, city or election precinct or district of this state, knowing that he is not a qualified voter within the territorial limits covered by such registry, is punishable by imprisonment in the penitentiary not less than one year. [Pen. C. 1877, § 70; R. C. 1899, § 6870.]

§ 8601. PERSONATING REGISTERED VOTER.] Every person who, within any city, town or election precinct or district

in this state in which a registry of qualified voters is by law authorized to be kept falsely personates a registered voter, and in such personating offers to vote at any election, is punishable by imprisonment in the penitentiary not less than one year. [Pen. C. 1877, § 71; R. C. 1899, § 6871.]

§ 8602. FALSE STATEMENT, PREVENTING REGISTRATION.] Every person who, at the time of requesting his name to be registered as that of a qualified voter, upon any registry of voters authorized by law to be kept in any city, town or election precinct or district of this state, or at the time of offering his vote at any election, knowingly makes any false statement or employs any false representation or false pretense or token, to procure his name to be registered or his vote to be received, is guilty of a misdemeanor. [Pen. C. 1877, § 72; R. C. 1899, § 6872.]

§ 8603. CONSTRUCTIVE FALSE STATEMENTS.] A false statement, representation or token, made or used in the presence and to the knowledge of a person requesting his name to be registered or offering his vote, is to be deemed made by himself, if it appears that it was made or used in support of his claim to be registered or to vote, that he knew it to be false and suffered it to pass uncontradicted. [Pen. C. 1877, § 73; R. C. 1899, § 6873.]

§ 8604. DISTURBANCE OF PUBLIC MEETING.] Every person who willfully disturbs or breaks up any public meeting of electors and others, lawfully being held for the purpose of considering public questions, is guilty of a misdemeanor. [Pen. C. 1877, § 74; R. C. 1899, § 6874.]

§ 8605. PREVENTING PUBLIC MEETING OF ELECTORS.] Every person who, by threats, intimidation or unlawful violence, willfully hinders or prevents electors from assembling in public meeting for the consideration of public questions, is guilty of a misdemeanor. [Pen. C. 1877, § 75; R. C. 1899, § 6875.]

§ 8606. PREVENTING ATTENDANCE AT PUBLIC MEETING.] Every person who makes use of any force or violence or of any threat to do any unlawful act, as a means of preventing an elector from attending any public meeting lawfully held for the purpose of considering any public questions, is guilty of a misdemeanor. [Pen. C. 1877, § 76; R. C. 1899, § 6876.]

§ 8607. INTIMIDATING ELECTORS.] Every person who willfully, by unlawful arrest, by force and violence or by threats or intimidation, prevents or endeavors to prevent an elector from freely giving his vote at any election, or employs either

of such means to hinder him from voting, or to cause him to vote for any person or candidate, shall be punished by a fine not exceeding one thousand dollars, and not less than fifty dollars. [Pen. C. 1877, § 77; R. C. 1899, § 6877.]

§ 8608. VIOLENCE, THREATS, ETC., OF ELECTORS.] Every person who procures or endeavors to procure the vote of any elector, or the influence of any person or other electors, at any election, for himself or for or against any candidate, by means of violence, threats of violence, or threats of withdrawing custom or dealings in business or trade, or enforcing the payment of debts, or bringing a suit or criminal prosecution, or any other threat of injury to be inflicted by him or by his means of procurement, shall be punished by a fine not exceeding one thousand dollars, and by imprisonment in the county jail not exceeding six months. [Pen. C. 1877, § 78; R. C. 1899, § 6878.]

§ 8609. DISOBEDIENCE OF ELECTION JUDGES AND OFFICERS.] Every person who willfully disobeys a lawful command of an inspector or judge of election or board of election, or board of judges of an election or election officers, given in the execution of his or their duty as such at any election, is guilty of a misdemeanor. [Pen. C. 1877, § 79; R. C. 1895, § 6879.]

§ 8610. VIOLENCE DISTURBING ELECTION.] Every person who is guilty of any riotous conduct, or causes any disturbance or breach of the peace, or uses any disorderly violence or threats of violence, whereby any elector is impeded or hindered, or whereby the lawful proceedings of any inspector or judge of election or poll clerk or other officer of election or election officer, or board of election or canvasser at such election, in the discharge of his or their duty, are interfered with, is guilty of a misdemeanor. [Pen. C. 1877, § 80; R. C. 1905, § 6880.]

§ 8611. DISOBEDIENCE. SUMMARY ARREST THEREFOR.] Whenever, at an election, any person refuses to obey the lawful command of an inspector or judge of election, or of a board of election or other officer of election or election officer or board of canvassers, or by any disorderly conduct in his or their presence interrupts or disturbs his or their proceeding, he or they may make an order directing the sheriff or any constable of the county, or one or more special constables to be appointed by him or them, to take the person so offending into custody and detain him until the final canvass of the votes shall be completed. But such order shall not prohibit the person taken into custody from voting at such election. [Pen. C. 1877, § 81; R. C. 1899, § 6881.]



§ 8612. SUCH ARREST NOT DEFENSE.] The fact that any person, offending against the provisions of the preceding section, was taken into custody and detained, as therein authorized, forms no defense to a prosecution for the offense committed under any provisions of this code. [Pen. C. 1877, § 82; R. C. 1899, § 6882.]

§ 8613. DESTROYING BALLOTS OR BOXES.] Every person who willfully breaks or destroys, on the day of an election or before the canvass is completed, any ballot box used or intended to be used as such election, or defaces, injures, destroys or conceals any ballot which has been deposited in any ballot box at an election, and has not already been counted or canvassed, or any poll list used or intended to be used at such election, is guilty of a felony. [Pen. C. 1877, § 83; R. C. 1899, § 6883.]

§ 8614. FALSE CERTIFICATES. SUPPRESSING CERTIFICATE.] Every person who falsely makes, or makes oath to or fraudulently destroys any certificate of nomination or any part thereof, or files or receives for filing any certificate of nomination, knowing the same or any part thereof to be falsely made, or suppresses any certificate of nomination which has been duly filed, or any part thereof, or forges or falsely makes the official indorsement on any ballot, or willfully neglects properly to indorse said ballot shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary not less than one and not exceeding five years. [1893, ch. 66, § 31; R. C. 1895, § 6884.]

§ 8615. DESTROYING SUPPLIES, LISTS OR CARDS.] Every person who, during an election, willfully removes or destroys any of the supplies or other conveniences placed in the booths or compartments for the purpose of enabling the voter to prepare his ballot, or prior to or on the day of an election willfully defaces or destroys any list of candidates posted in accordance with the provisions of law, or any copy of the printed ticket so posted, or who, during an election, tears down or defaces the cards printed for the instruction of voters, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding one hundred dollars. [1893, ch. 66, § 32; R. C. 1895, § 6885.]

§ 8616. FALSE POLL LIST.] Every poll clerk or clerk of the poll at any election, who willfully keeps a false poll list, or who knowingly inserts in his poll list any false statement, is guilty of a misdemeanor. [Pen. C. 1877, § 84; R. C. 1895, § 6886.]

§ 8617. MISCONDUCT OF JUDGES. CHALLENGES.] Every inspector or judge of an election, who willfully excludes any vote duly tendered, knowing that the person offering the same is lawfully entitled to vote at such election, or who willfully receives a vote from any person who has been duly challenged in relation to his right to vote at such election, without exacting from such person such oath or other proof of qualification as may be required by law, or who willfully omits to challenge any person offering to vote, whom he knows or suspects not to be duly entitled to vote, and who has not been challenged by any other person, is guilty of a misdemeanor. [Pen. C. 1877, § 85; R. C. 1895, § 6887.]

§ 8618. FALSELY CANVASSING OR CERTIFYING.] Every inspector or judge of election, member of any board of election or of canvassers, poll clerk, messenger or other officer authorized to take part in or perform any duty in relation to any canvass or official statement of votes cast at any election, who willfully makes any false canvass of such votes, or makes, signs, publishes or delivers any false returns of such election, knowing the same to be false, or willfully defaces, destroys or conceals any statement or certificate intrusted to his care, is guilty of a misdemeanor. [Pen. C. 1877, § 86; R. C. 1895, § 6888.]

§ 8619. BRIBING ELECTION OFFICERS.] Every person who gives or offers a bribe to any inspector, judge, clerk, canvasser or other officer of any election, or of any board of election, as a consideration for some act done or omitted to be done, contrary to his official duty in relation to such election, shall be punished by a fine not exceeding five hundred dollars and imprisonment in the county jail not exceeding six months. [Pen. C. 1877, § 87; R. C. 1895, § 6889.]

§ 8620. PENALTY, DISFRANCHISEMENT.] Any person guilty of either of the offenses mentioned in section 8585 and 8586 shall thereafter be forever disfranchised and rendered ineligible to any office of trust or profit within the state, including that of representative to congress. [Pen. C. 1877, § 88; R. C. 1899, § 6890.]

§ 8621. WITNESS NOT EXCUSED, NOT PUNISHED.] No person shall be excused from testifying upon a prosecution for an offense mentioned in section 8586 upon the ground that his statement might tend to criminate himself, but any person so testifying against the other party shall thereafter be exempt from punishment for such offense mentioned in said section. [Pen. C. 1877, § 89; R. C. 1899, § 6891.]

§ 8622. ELECTION DEFINED.] The word "election," as used in this chapter, designates only elections had within

this state for the purpose of enabling electors, as such, to choose some public officer or officers under the laws of this state, or of the United States. [Pen. C. 1877, § 90; R. C. 1899, § 6892.]

§ 8623. IRREGULARITIES NO DEFENSE.] Irregularities or defects in the mode of noticing, convening, holding or conducting an election authorized by law, form no defense to a prosecution for a violation of the provisions of this chapter. [Pen. C. 1877, § 91; R. C. 1899, § 6893.]

§ 8624. RIGHTS. LAWFUL INTERFERENCE.] Nothing in this chapter shall be construed to authorize the punishment of any person who, by authority of law, may interfere to prevent or regulate an election which has been unlawfully noticed or convened, or is being or is about to be unlawfully conducted. [Pen. C. 1877, § 92; R. C. 1899, § 6894.]

§ 8625. QUESTIONS SUBMITTED. CRIMINAL ACTS.] Every act which by the provisions of this chapter is made criminal when committed with reference to the election of a candidate, is equally criminal when committed with reference to the determination of a question submitted to electors to be decided by votes cast at an election. [Pen. C. 1877, § 93; R. C. 1899, § 6895.]

§ 8626. GOOD FAITH. GIVEN IN EVIDENCE.] Upon any prosecution for procuring, offering or casting an illegal vote, the accused may give in evidence any facts tending to show that he honestly believed upon good reason that the vote complained of was a lawful one; and the jury may take such facts into consideration in determining whether the acts complained of were knowingly done or not. [Pen. C. 1877, § 94; R. C. 1899, § 6896.]

§ 8627. SELLING LIQUORS ON ELECTION DAY.] Every person who sells, gives away or disposes of any intoxicating liquors as a beverage, on the day of any general election or special or local election, in the town, city or county where held, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by imprisonment in the county jail not to exceed twenty days, and by fine not exceeding one hundred and not less than fifty dollars. [Pen. C. 1877, § 95; R. C. 1895, § 6897.]

§ 8628. UNLAWFUL VOTING AT CAUCUS. PENALTY.] Every person who is not a qualified elector of the ward or election precinct in which any caucus or primary meeting is held and having for its object either immediately or ultimately, the nomination or selection of any delegate, or of any candidate for a public office to be voted for at any elec-



tion in this state, who in any manner votes upon any question or issue pending before or submitted to such caucus or primary meeting, is guilty of a misdemeanor. It shall be the duty of the clerk of any caucus held under section 598 of the political code to carefully keep and preserve the record of the caucus, which shall include a list of the names of each person voting at the said caucus, for six months, and he shall at any time within said six months furnish a certified copy of the record of such caucus upon the request of the chairman of the county or state committee of the political party which said caucus represented. Any person who shall participate directly or indirectly in the election at caucus of more than one delegate or set of delegates for the nomination of each office to be filled shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than fifty nor more than two hundred dollars. [1885, ch. 28, § 31; 1899, ch. 28 §§7, 8; R. C. 1899, § 6898.]

§ 9341. MUTILATING ELECTION RETURNS] Every messenger appointed by authority of law to receive and carry any report, certificate or certified copy of any statement relating to the result of any election, who willfully mutilates, tears, defaces, obliterates or destroys the same, or does any other act which prevents the delivery of it as required by law, and every person who takes away from such messenger any such report, certificate or certified copy, with intent to prevent its delivery, or who willfully does any injury or other act such as is above specified, is punishable by imprisonment in the penitentiary not exceeding five years and not less than two years. [Pen. C. 1877, § 716; R. C. 1899, § 7582.]

## PRIMARY ELECTION LAW.

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SECTION 1. INTENT OF ACT.] It is the intention of this act to reform the methods by which political parties shall make nominations of candidates for all public offices by popular vote. It shall be liberally construed so that the real will of the electors may not be defeated by any informality or failure to comply with all provisions of law in respect to either the giving of any notice or the conducting of the primary or certify the results thereof. [1907, ch. 109.]

SEC. 2. HELD, WHEN. WHAT OFFICES FOR.] On the last Wednesday in June of every year in which occurs a general election, there shall be held, in lieu of party caucuses and conventions, a primary election in the various voting precincts of this state, for the nomination of candidates for the following offices to be voted for at the ensuing general election, viz: Members of congress, state officers, county officers, district assessors and the following officers on the years of their regular election, viz: Judges of the supreme and district court, members of the legislative assembly and county commissioners, and United States senator in the year previous to his election by the legislative assembly; provided, however, that the provisions of this act shall not be construed to include or provide for the nomination of presidential electors or delegates to national conventions. Such delegates to national conventions shall be nominated and elected, and presidential electors nominated as now or hereafter may be provided for by the various state central committees. For special elections for the officers enumerated herein the nominations shall be made as otherwise provided by law. [1907, ch. 109.]

SEC. 3. PETITION REQUIRED. FEES FOR FILING. AFFIDAVIT OF CANDIDATES.] Every candidate for United States senator, member of congress, state officers, judge of supreme and district courts, shall not more than sixty days nor less than thirty days prior to said primary election, present to the secretary of state a petition giving his name, post office address, the title of the office to which he aspires and the party which he represents, containing the names of 3 per cent of the total vote cast for the candidate of the party with which

he affiliates, for the same position at the last general election; provided, however, that in no case shall more than three hundred names be required. Each name on the petition shall be that of a legal voter and be subscribed under a certified party heading.

Upon receipt by the secretary of state of such petition and the payment to him of an amount equal to one per cent of the annual salary of the office to which he aspires, and when accompanied by the following affidavit he shall place the applicant's name upon the primary election ballot in the columns of his party as hereafter provided; provided, however, that no fee shall be required of candidates for United States senator. Said affidavit may be substantially as follows:

State of North Dakota, }  
County of..... } ss.

I, ....., being duly sworn, depose and say that I reside in the county of.....and state of North Dakota; that I am a qualified voter therein and a.....; that I am a candidate for nomination to the office of..... to be chosen at the primary election to be held on the.....19..., and I do hereby request that my name be printed upon the primary election ballot as provided by law, as a candidate of the.....party for said office.

Subscribed and sworn to before me this.....day  
of....., 19....

Notary Public, North Dakota.

The fees designated in this section to be paid to the secretary of state shall be turned over by him to the state treasurer to be covered into the general fund. [1907, ch. 109.]

§ 4. (Decision.) PARTY REGISTRATION REQUIRED, WHEN.] A party registration of the voters in their respective political parties shall be taken in each precinct of this state in the following manner. In the months of April and May of each even numbered year in which a primary election is held, the assessor of each district shall at the time he makes his assessment of the real and personal property take down in an enrollment book



the name of each voter in his district, grouping alphabetically and according to the precinct of such voters in substantially the following form:

.....County,  
 .....City,  
 .....Ward  
 .....Election precinct.

Date	Enrolled Number	Name	P. O. Address	Age	Nativity	Str. No.	Party Affil.
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And also have each voter sign, and swear to before the assessor or notary as the case may be a registration blank "A" which shall be in the following form:

State of North Dakota, }  
 County of..... } ss.

I, the undersigned, elector do solemnly swear or (affirm) that my name and signature as signed below is my true name and signature. If I have not personally signed it, it is because.....and it was signed at my request by the attesting officer. My age is.....years and occupation.....; nativity.....; naturalized or declared by intention in.....court, in.....county, .....State, on.....19..., as appears by the naturalization papers exhibited herewith. Present residence is in section....., township....., range....., .....county, North Dakota; or (if in city or town ) at No.....street, in the city of.....post office address..... I belong to the.....party; that I have resided in this state for one year immediately preceding this election. In testimony whereof I sign my name two times.

(1)..... (1).....  
 (2)..... (2).....  
 Elector.

Note—"Verification to be in usual form." If unable to sign, let the officer write his name and so state.

REGISTRATION AND ENROLLMENT BOOKS. HOW FURNISHED.] These party enrollment books and blanks shall be prepared and furnished by the secretary of state and by him sent to each county auditor in the state and by each county auditor distributed to each assessor. The assessors shall complete this work of taking the party registration in the months of

April and May of each even numbered year and shall return the blanks and enrollment books to the county auditors of the respective counties on or before thirty days before each primary election day and shall receive as compensation the sum of ten cents (10c) for entry of the name of each party voter in addition to the compensation now allowed by law for this work as such assessor. He shall cause the names to be entered in the party enrollment book alphabetically and according to the respective precincts of the voters within that district.

Any voter who is unavoidably absent from the assessor's district during the time of taking the party registration may go before any notary public and sign and verify a registration blank as shown by form "A" and mail the same in to the county auditor of his county.

WHEN PERSON MAY CAUSE NAME TO BE ENROLLED ON PRIMARY DAY.] Any person who was a qualified voter in any election precinct in this state on the day of enrollment and registration provided for in this act, and who failed to have his name enrolled on that day by reason of sickness or unavoidable absence from the election precinct, and who is a qualified voter in said district at the time of the primaries thereafter held therein, or who may have become twenty-one years of age after the day of enrollment, may have his name enrolled by the election board on any primary day upon making oath as provided in the general election law in relation to registration of electors on election day. Any person who was a qualified voter in any election precinct in this state on the day of enrollment provided for in this act, and who was duly enrolled as provided herein, who has had occasion to transfer his place of residence to an election precinct other than that in which he was enrolled, may be entitled to a new enrollment on primary day in such election precinct and be entitled to a vote therein, provided that he has resided in the election precinct to which he has lately removed for a period to comply with general laws governing residences of electors. He may obtain from the assessor of the precinct in which he formerly resided a certificate stating that he was duly enrolled in such precinct, and that he has changed his residence therefrom to such other precinct and that he is entitled to enrollment therein.

The county auditor shall cause duplicates to be made of all the party enrollment books on file in his office and cause a copy of the party enrollment book for each precinct to be delivered to the inspector of elections of such precinct at the same time that the other election supplies and ballot boxes are delivered to such inspector as now provided by law.

The inspector and judges at such primary election shall require each voter to vote the party ballot under which he has registered.

COUNTY AND LEGISLATIVE CANDIDATES. PETITION, FILING FEE AND PLEDGE.] Every candidate for a county or district office shall not more than forty days nor less than thirty days, and before 4 o'clock p. m. of the thirtieth day prior to any primary election, present to the county auditor a petition giving his name, post office address, the title of the office to which he aspires and the party which he represents, containing the names of five per cent of the total vote cast for the candidate of the party which he represents, for the same position at the last general election: such names to be procured from at least one-fifth of the precincts of his district; provided, however, that in no case shall there be more than two hundred names; and, provided, further, that the petitions of all candidates for members of the legislative assembly may, in addition to the requirements hereinbefore provided, contain the following pledge, namely: "I, the undersigned, a candidate for the office of member of the legislative assembly of the state of North Dakota, do obligate myself to the people of the state of North Dakota and to the people of my legislative district that during my term of office I will support and vote for that candidate for United States senator in congress of the party of which I am a member, who has received a majority of such party votes, or who by law received the party nomination for that position at the primary election next preceding the election of United States senator in congress." In case such legislative candidate signs the foregoing pledge, he shall be entitled to have printed below his name upon the primary and general election ballot the following words, to-wit: "Pledged to the people's choice for U. S. senator." In case such legislative candidate does not sign the foregoing pledge there shall be printed below his name upon the primary election and general election ballots the following words, to-wit: "Not pledged to the people's choice for U. S. Senator."

Each name on the petition shall be that of a qualified voter, and be subscribed under a party heading. Each signer of a nomination paper shall sign but one such paper for the same office; he shall add his residence with the street number, if any, and the date of signing. Upon the receipt of such petition by the county auditor and the payment to him of the filing fee of three dollars (\$3.00), excepting candidates for county commissioners, district assessors, surveyor, coroner, county constables and county justices of the peace, who shall pay no filing fee and when accompanied by an affidavit as provided in section 3 of chapter 109 of the



1907 Session Laws relating to petitions required, fees and filing affidavit of candidate, such county auditor shall place the name of such applicant upon the primary election ballot in the columns of his party as hereinbefore provided.

When a legislative district is composed of more than one county, the petition herein provided for shall be filed with the county auditor of the county where the candidate resides, and such county auditor shall certify to the county auditors of the other counties comprising such legislative districts the names of the candidates filing such petitions. The filing fees received as above by the county auditor shall be turned over by him to the county treasurer to be covered into the general fund. [1911, ch. 213.]

§ 5. NAMES ON PRIMARY BALLOT. HOW SECURED. VACANCIES. HOW FILED.] Application to have a name placed on the primary election ballots for nomination may be made by five qualified electors for any office designated in this Act, by presenting the petition required in Sections 3 or 4 to the proper official, and paying the amount required, accompanied by the following affidavit:

State of North Dakota, }  
County of..... } ss.

"I, A....., B....., C....., D....., and E.....being duly sworn, each for himself, deposes and says that he is a qualified voter in the state of North Dakota, that he hereby makes application to have the name of..... printed on the primary election ballot of the.....party, for the office of.....to be voted for at the primary election to be held on the.....day of....., 19...; that said.....is to the best of his knowledge, information and belief, a.....and a qualified voter and eligible to hold the office of.....under the constitution.

.....  
.....  
.....  
.....  
.....

"Subscribed and sworn to before me this.....day of .....19....

.....  
Notary Public, North Dakota.

When such application is received by the proper officer, accompanied by the necessary fee, as required in Sections 3 and 4 of this Act, he shall place the name on the primary

election ballot as a candidate of the party named in said petition; provided, that such affidavit and petition shall not be filed without the written consent of such person to be nominated endorsed thereon; and provided, further, that when the time has expired at which a petition may be filed, and a vacancy exists in the primary election ballot of any political party by reason of no petition having been filed for such nomination, then and in that case the same may be filed by affidavit and petition as provided in this Section, on the payment of one-half of the usual fee, and such affidavit and petition must be filed with the proper officers at least twenty-five days before the primary election; and provided, further, that no petition shall be circulated or signed more than ninety days previous to the time when any petition is required to be filed as herein provided for, and any signatures to a petition secured prior to ninety days shall not be counted. [1913, ch. 223.]

§ 6. FORM OF PETITION.] The petitions required in sections 3, 4 and 5 of this act may be one continuous list of names under the proper title or principle, or there may be a number of such petitions using the same title, giving the aggregate of names required. [1907, ch. 109.]

§ 7. NOMINATIONS BY STICKERS.] A candidate may be nominated by having his name written on or by printed stickers placed over the name or in a blank line left for that purpose underneath the group in each official position; but not more than one name shall be written or printed on any such stickers. [1907, ch. 109.]

§ 8. ELIGIBILITY OF CANDIDATES.] All persons nominated in accordance with the provisions of this act shall be eligible as candidates to be voted for at the ensuing general election. [1907, ch. 109.]

§ 9. BALLOTS, FORM OF. DUTIES OF JUDGES AND INSPECTORS.] The primary election and primary election ballots shall be provided for, arranged and conducted and all expenses paid as now provided by law for general elections, except as otherwise provided for in this Act.

There shall be separate ballots for each party or principle and they shall all be of the same size, texture and color, except sample ballots, which shall be printed on tinted paper.

The ballot shall be entitled "Primary Election Ballot."

The names of all aspirants for nomination for each political party or principle for the different offices shall be arranged in separate groups in their order, on separate ballots under a proper political designation, leaving one or

more blank lines or spaces below each group of names on which may be written or placed a name or a printed sticker attached for the nomination of the committee. No squares shall be left at the head of the ballot.

At the head of each ballot shall be placed the title of the political party or principle that it represents.

At the left of each group shall be placed the title of the office, followed by a bracket, indicating the number of names in such group. Above each group there shall be a space in which shall be printed the number of names in that group to be voted for as follows:

“Vote for.....name (or number names) only.”

Immediately above the names of the candidates to be voted for shall be printed the following:

“To vote for a person whose name is printed on the ballot mark a cross (X) in the square at the right of the name of the person for whom you desire to vote.

“To vote for a person whose name is not printed on the ballot, write or paste his name in the blank space provided for that purpose.”

Each ballot shall contain two columns, and each column is to have as nearly as possible the same number of names of candidates thereon, except that no groups or spaces beneath any group shall be divided, and the candidates for the various offices shall appear upon the ballot in the following order, commencing at the column to the left, viz:

#### Congressional—

United States Senator.....Vote for one  
Representatives in congress.....district.....Vote for.....

#### State Officers—

Governor.....Vote for one  
Lieutenant governor.....Vote for one  
Secretary of State.....Vote for one  
State Auditor.....Vote for one  
State Treasurer.....Vote for one  
Superintendent of Public Instruction.....Vote for one  
Attorney General.....Vote for one  
Commissioner of Insurance.....Vote for one  
Commissioner of Agriculture and Labor.....Vote for one  
Commissioner of Railroads.....Vote for three

#### Legislative—

State Senator.....District.....Vote for one  
Members of House of Representatives.....Vote for....



## County Officers—

Sheriff.....	Vote for one
Auditor.....	Vote for one
Treasurer.....	Vote for one
Clerk of District Court.....	Vote for one
Register of Deeds.....	Vote for one
State's Attorney.....	Vote for one
County Judge.....	Vote for one
Superintendent of Schools.....	Vote for one
Public Administrator.....	Vote for one
County Surveyor.....	Vote for one
County Coroner.....	Vote for one
County Commissioner.....district.....	Vote for....
County Constable.....	Vote for....

A square shall be placed following the name to the right of every candidate and the voter shall place a cross (X) in such square following the name of each person he desires to vote for.

The judges and inspectors of election when handing a ballot to a voter shall inform him that he must vote for the candidates of the political party such ballot represents only, and the voter shall call for the ballot representing the party or principle with which he affiliates and he shall receive such ballot and no other. [1913, ch. 222.]

§ 10. MUST VOTE PARTY BALLOT.] Any citizen otherwise eligible by law, affiliated with or representing the principles enumerated in the national platform of the following parties, are eligible to nomination under this act. The republican party, the democratic party, or any party designation that cast 5 per cent of the votes cast for governor at the last general election, and it shall be unlawful for any person to call for or vote a ballot at the primary election herein provided for, except a ballot representing the party or principle with which he affiliates, and any person who has reason to believe that the ballot called for by the voter does not represent the party or principle with which said voter affiliates, may challenge such vote, and he shall not be entitled to cast his ballot unless he makes and files with the inspector of such primary election an affidavit to the effect that such ballot represents the political party with which he affiliates. [1907, ch. 109.]

§ 11. VACANCIES FILED BY PARTY COMMITTEES. Should a vacancy occur in any of the offices for which nominations are made under this act by reason of resignation or death, where there is only one aspirant for such office, before the printing of the primary election ballot such vacancy may be

filled by the regularly constituted committee of the party to which such vacancy belongs, and no petition nor fee shall be required. [1907, ch. 109.]

§ 12. PERCENTAGES OF VOTES REQUIRED FOR NOMINATIONS.] If the total vote cast for any party candidate or candidates for any office for which nominations are herein provided for, shall equal less than 25 per cent of the average total number of votes cast for governor, secretary of state and attorney general of the political party, he or they represented at the last general election, then no nomination shall be made in that party for such office, but it (if) 25 per cent or more of such party vote is cast and there is more than one candidate for any such office, the person receiving the highest number of votes shall be declared the nominee of such party for such office; *provided further* that where there is more than one person to be elected to the same office the persons to the number to be elected receiving the highest number of votes cast for such office shall be declared the nominee of the party for such offices. [1913, ch. 222.]

§ 13. NOMINATIONS FOR UNITED STATES SENATOR.] Party candidates for the office of United States senator shall be nominated in the manner herein provided for nominations of candidates for state officers.

The candidate receiving the highest number of votes at such primary election shall be the nominee of his party for the office of United States senator, at the succeeding session of the legislative assembly which is to elect a United States senator. The votes for candidates for United States senator shall be canvassed and returned in the same manner as the votes cast for state officers.

It is hereby made the duty of the secretary of state to certify to the next session of the legislative assembly the name of the candidate of each party, who receives the highest number of votes for the office of United States senator. [1911, ch. 207.]

§ 14. BALLOTS, HOW PREPARED.] The primary election ballot shall be prepared, unless otherwise provided in this act, as defined in sections 614 and 616 of the revised codes of 1905. [1907, ch. 109.]

§ 15. ARRANGEMENT OF NAMES ON BALLOT.] The names of candidates for each office upon the sample ballot shall be arranged alphabetically, according to surnames. The names of candidates under headings designating each official position shall be alternated on the official ballot in the printing, in the following manner, viz.:

First: The forms shall be set up with the names in the order in which they are placed upon the sample ballots prepared by the secretary of state for the state and district offices, and by the county auditor for the county offices.

In printing each set of official ballots for the various election precincts the position of the names shall be changed in each office division as many times as there are candidates in the office division or group in which there are the most names.

As nearly as possible an equal number of tickets shall be printed after each change.

In making the changes of position the printer shall take the line of type at the head of each office division and place it at the bottom of that division, shoving up the columns so that the name that was second before the change shall be first after the change.

After the ballots are printed, before being cut, they shall be kept in separate piles for each change of positions, and shall then be piled by taking one from each pile and placing it upon the other pile to be cut, the intention being that every other ballot in the pile of printed sheets shall have names in different positions.

After the piles are made in this manner they shall be cut and placed in blocks as provided by the general election laws. [1907, ch. 109.]

§ 16. LIST OF OFFICERS TO BE NOMINATED.] The secretary of state between the first day of April and the first day of May in such year, shall direct and cause to be delivered to the county auditor of each county, a notice specifying the officers to be nominated under this act, whose term of office will expire between the first Monday in December and the first Monday in March, next succeeding, also specifying the several officers to be nominated in such county at the next primary election. The auditor to whom such notice is delivered shall cause notice of the same to be given as provided in section 637 of the revised codes of 1905. [1907, ch. 109.]

§ 17. PROVISIONS OF ELECTION LAW APPLICABLE.] Excepting as herein otherwise provided, the following sections of chapter 8 of the political code of 1905, entitled "Elections," are hereby made applicable to primary elections and primary election ballots, under this act, to-wit: 605, 606, 607, 608, 609, 610, 611, 613, 614, 615, 616, 619, 620, 621, 622, 623, 624, 630, 635, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 654, 655, 656, 657, 658, 659, 660, 669, 671, 672, 673, 674, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 649, 695, 696, 697, 698, 699 and 700. [1907, ch. 109.]



§ 18. TALLY BOOKS. ARRANGEMENT OF NAMES.] Two tally books or two sets of tally sheets shall be provided for each political party or principle, having candidates to be voted for, at each voting precinct, the same to be furnished by the county auditor, at the same time and in the same manner that the poll books and ballots are furnished. The names of the candidates shall be placed on the tally sheets in the order in which they appear on the official sample ballot, and in each case shall have the proper party designation at the head thereof. [1907, ch. 109.]

§ 19. POLLS, OPEN WHEN.. CANVASS.] The polls shall be opened at 8 o'clock a. m. and remain open continuously until 5 p. m. When the polls are closed the judges and inspectors of such primary election shall open the ballot boxes, count the votes and compare the same with the clerk's lists, and should any irregularity appear they shall proceed as now provided by law. When the ballots compare with the clerk's lists, they shall proceed to canvass and place those of each political party in separate piles. The tally of the votes shall be separate for each political designation or principle and so returned by the judges and inspectors of election, giving the full vote for every candidate. The men's and women's votes shall be kept separately and so returned by the judges. The county canvassing board shall aggregate these for the candidates voted for. [1907, ch. 109.]

§ 20. RETURNS.] The judges of such primary election in each precinct shall make a statement on blanks to be provided for that purpose, which shall be subscribed by them and filed in the office of the county auditor with the returns as follows: They shall contain the names of all persons voted for at the primary election, with the number of votes cast for each candidate and for what office. A separate statement shall be made for each political party or principle. [1907, ch. 109.]

§ 21. POLL LIST DELIVERED TO BOARDS OF REGISTRATION.] Clerks of primary election shall keep a list of the names of all persons voting at said election, and shall return one list as now required and one tally sheet shall be a part of the record, and deliver the other list to the board of registration within thirty days following any primary election. No registration of voters shall be required under his act to vote at any primary election. The poll list so kept at a primary election and delivered to the board of registration shall take the place of the first registration of the voters now required, and notice only shall be given of the date of the second day of registration, which shall be held and conducted as now

provided; and no other shall be required to vote at the general election following. [1907, ch. 109.]

§ 22. COUNTY CANVASSING BOARD.] The county canvassing board shall be composed of the clerk of the district court, county auditor, chairman of the board of county commissioners and the chairman of the county committees of the two political parties that cast the highest votes for governor at the preceding general election. The members of said board shall meet in the county auditor's office in the court house at 10 o'clock on the eighth day after any primary election, and shall proceed, after taking the usual oath of office, to open and publicly canvass the primary election returns made to the county auditor. Any three members of said board shall constitute a quorum, and are authorized to make the canvass therein provided and to certify to the results thereof. [1907, ch. 109.]

§ 23. STATEMENT OF CANVASSING BOARD. CONTENTS.] The canvassing board shall make and prepare a statement, the same to be signed by said board and filed in the office of the county auditor, as follows:

First. A statement containing the names of all candidates voted for at the primary election, with the number of votes received by each and for what office, said statement to be made as to each political party or principle separately.

Second. A statement of the names of the persons or candidates of each political party who are nominated, to-wit: Those persons or candidates of such political party or principle who received the highest number of votes for the respective office, and where there is more than one person to be elected to a given office at the ensuing general election there shall be included in said statement of nomination the names of so many candidates of such party receiving the next highest number of votes for that office as there are persons to be elected to such office at said ensuing general election. Said statement shall in like manner be made separately as to each political party.

Third. A statement of the whole number of electors registered and the number of ballots cast, men and women separately, at such primary election.

Fourth. A separate statement shall be made of the votes cast for United States senator, member of congress, state officers, judges of the supreme and district court and members of the legislative assembly, which shall be transmitted to the secretary of state as provided in this act.

Fifth. It shall be the duty of the county auditor upon the completion of the canvass to mail or deliver in person

to each candidate so nominated for any county or district office a notice of such fact and that his name will be put upon the official ballot, except as otherwise provided. He shall also cause a copy of the findings of said board to be published in the official newspaper of the county. [1907, ch. 109.]

§ 24. ABSTRACT OF VOTES TRANSMITTED TO SECRETARY OF STATE.] It shall be the duty of the county auditor of each county, under his official seal, excepting as provided in section 25 of this act, to return to the secretary of state on or before the first Tuesday of August following any primary election, a certified abstract under separate political designation or principle, of the number of votes cast in his county for every candidate for nomination for United States senator, member of congress, state officers, judges of the supreme and district courts and members of the legislative assembly. He shall seal up such abstracts and without delay transmit them to the secretary of state by registered mail. [1907, ch. 109.]

§ 25. TWO OR MORE COUNTIES IN DISTRICT.] When two or more counties are embraced in one legislative district the respective county auditors shall attend at the office of the county auditor of the senior county of such district, within fifteen days after a primary election, and in conjunction with the auditor of the senior county shall compare the votes cast in the several counties comprising such district and such auditors shall immediately make out certificates of nomination for the persons of each political party or principle having the highest number of votes in such district for members of the legislative assembly, as provided in section 24 of this act, which certificates of nomination shall be forwarded without delay to the secretary of state by registered mail by the county auditor of the senior county, who shall give notice in writing to all the members of the legislative assembly nominated in such district. [1907, ch. 109.]

§ 26. STATE BOARD OF CANVASSERS.] For the purpose of canvassing and ascertaining the result of any primary election the state board of canvassers shall meet at the office of the secretary of state on the first Tuesday in September next following a primary election, and be composed of the following members, viz.: Clerk of the supreme court, secretary of state, superintendent of public instruction and the chairman of the state central committee of the two political parties that cast the highest votes for governor at the last general election. After taking the usual oath of office the said board shall proceed to open and publicly canvass



the primary election returns made by the several county auditors. Three members of said board shall constitute a quorum and are authorized to make the canvass herein provided and to certify to the result thereof. [1907, ch. 109.]

§ 27. STATEMENT BY STATE BOARD.] The state board of canvassers shall make and prepare a statement, the same to be signed by said board and filed in the office of the secretary of state as provided in subdivisions 1, 2 and 3 of section 23 of this act. It shall be the duty of the secretary of state upon the completion of the canvass to mail to each candidate so nominated a notice of such fact, and that his name will be put upon the official ballot to be voted for at the ensuing general election, except as otherwise provided. He shall cause a copy of findings of the said board to be filed in his office and published in a newspaper printed at the seat of government. [1907, ch. 109.]

§ 28. OFFICIAL BALLOT, NAMES PLACED THEREON.] The secretary of state shall place the names of all the candidates of each political party or principle, who are shown to have been nominated for the respective offices in accordance with the certificates of nomination received from the several county auditors of this state on the official ballot to be voted for at the general election following. [1907, ch. 109.]

§ 29. VACANCIES, HOW FILLED.] When there is but one aspirant and a vacancy occurs by death or resignation of such aspirant for nomination before the primary election and ballots are printed in legislative districts containing more than one county, the chairman of the party in which such vacancy occurs, of each county committee of the counties of which such district is composed and the members of the state central committee from that legislative district shall meet and by a majority vote of such shall fill such vacancy and by a certificate of nomination notify the county auditors of the several counties of which such district is composed, and the auditors of such counties shall place the name on the primary election ballot where the vacancy exists. Should a vacancy occur in a legislative office in a county composed of more than one district, or in a commissioner's district, then the county central committee of the party in which such vacancy occurs shall meet and fill such vacancy. On receipt of a certificate of nomination from said committee, the county auditor shall place the name of such nominee upon the primary election ballot where such vacancy exists. [1907, ch. 109.]

§ 30. ERRORS, HOW CORRECTED.] Whenever it shall be made to appear by affidavit to the supreme court or to the district court of the proper county that an error or omission has occurred, or is about to occur in the placing of any name on an official primary election ballot; that any error has been or is about to be committed in printing such ballot, or that any wrongful act has been or is about to be done by any judge or clerk of a primary election, county auditor, canvassing board, member thereof, or other person charged with any duty concerning the primary election; or that any neglect of duty has occurred or is about to occur, such judge shall order the officer or person charged with such error, wrong or neglect, to forthwith correct the error, desist from the wrongful act, or perform the duty, or show cause at a time and place to be fixed by the court why he should not do so. Failure to obey the order of such judge shall be contempt of court. [1907, ch. 109.]

§ 31. NOMINATIONS, HOW CONTESTED. APPEAL.] Any candidate at a primary election desiring to contest the nomination of another candidate or candidates for the same office, may proceed by affidavit within ten days after the completion of the canvass. In case the contestant set forth in his affidavit, upon information and belief, that the ballots in any precinct have not been correctly counted, and that he has been prejudiced thereby, the judge shall make an order requiring the custodian of such ballots to appear before him at such time and place, and abide the further order of the court. At the time and place stated, the ballot boxes shall be opened and the ballots recounted in the presence of the court. If it should be found that a mistake has been made in counting such ballots, then the contestant shall be permitted upon application to amend his affidavit of contest by including such additional facts therein.

All testimony and depositions taken in contests brought under the provisions of this article shall be taken in the same manner as in civil actions and depositions may be taken in more than one place at the same time on leave of the court, and all matters relating to such contests shall be heard and tried as nearly as may be as civil actions are tried, except as otherwise provided herein. The court shall make its findings of fact and conclusion of law. Appeals from final judgment and decisions of such contests may be taken without making a motion for a new trial in the district court in the manner provided for in the code of civil procedure, except that the undertaking on appeal shall be in a sum to be fixed by the judge, not less than five hundred

dollars, and shall be approved by the judge and by the clerk of the district court of the proper county or subdivision under the directions of the judge.

Appeals to the supreme court under the provisions of this article must be taken within ten days after notice of entry of final judgment and the party appealing must immediately procure the transmission of the record on such appeal to the clerk of the supreme court and such appeal may be brought on for a hearing before the supreme court at any time such court shall be in session, upon five days notice from either party; and the same shall be heard, and determined in a summary manner, except as otherwise provided in this article. The provisions of the code of civil procedure are applicable to and constitute the rules of practice in the proceedings mentioned in this article and the provisions of the civil code of procedure relative to appeals in civil actions, except in so far as they are inconsistent herewith, apply to the proceedings mentioned in this article. [1907, ch. 109.]

§ 32. PRESENT ELECTION STATUTES APPLY.] The provisions of the statute now in force in relation to the holding of elections, the solicitation of votes, the manner of conducting elections, of counting ballots and making return thereof, and all other kindred subjects shall apply to all primaries in so far as they are consistent with this act; the intent of this act being to place the primary election under the regulation and protection of the laws now in force as to election. [1907, ch. 109.]

§ 33. TIE VOTE, DETERMINED HOW.] In case of a tie vote the same, shall be determined by the canvassing board or boards concerned, at a time and place fixed by them in such manner as they may designate in the presence of the candidates, upon at least five days notice to such candidates. [1907, ch. 109.]

§ 34. NOT REPEALED.] Nothing herein contained shall be construed as repealing or being in conflict with section 501 of the revised codes of 1905. [1907, ch. 109.]

§ 35. FEES PAID COUNTY.] All fees paid to the secretary of state by candidates for the legislative assembly shall be paid by the secretary of state forthwith to the various county auditors in the state where such candidates reside and in case any legislative district is composed of more than one county such fee shall be paid to such counties in equal proportions, which fees are to be turned into the general fund of said county by the auditor. [1907, ch. 109.]



§ 36. ACT VALID.] In case any of the provisions of this act should be declared unconstitutional, that shall not affect the validity of any of the other provisions of this act. [1907, ch. 109.]

§ 37. PENAL CODE APPLICABLE.] All of the provisions of chapter 5 of the penal code in so far as the same relates to crimes against the elective franchise, are hereby made applicable to elections held pursuant to the provisions of this act. [1907, ch. 109.]

§ 38. PRESENT COMMITTEES CONTINUE.] Every state, county, district and city committee of each political party now eligible under the provisions of this act shall remain the regularly constituted committee of the respective parties until succeeded as provided for in this act. [1907, ch. 109.]

§ 39. PRECINCT COMMITTEEMEN. HOW ELECTED.] At the primary each voter may write in the space left on his ticket for that purpose the name of one qualified elector who is a member of his own party and a resident of his precinct, and the one receiving the highest number of votes shall be the precinct committeeman. The official returns made by the election board from each precinct shall show the name and address of such precinct committeeman thus chosen by each party. Upon the canvass of the returns the county auditor shall immediately notify in writing each precinct committeeman so selected, together with those provided for in section 40 of this act, of their selection and the date of the meeting of the county central committee. [1911, ch. 211.]

§ 40. COUNTY AND STATE COMMITTEE. HOW SELECTED. TIME AND PLACE OF MEETING.] The county committee of each party shall be composed of all the precinct committeemen of each party in addition to committeemen chosen at large by the following named county nominees of each party, selected in the following manner, to-wit: The nominees for the following county offices, namely: Clerk of court, county treasurer, county auditor, register of deeds, sheriff, states attorney, superintendent of schools and county judge, and the legislative nominees residing in such county shall be entitled to select and appoint in writing one committeeman at large, which appointment shall be immediately filed with the county auditor. The committeeman thus appointed, together with the precinct committeemen elected as prescribed in section 39 hereof, shall constitute the county committee of each county, and they shall meet in the court house at the county seat of each county at two o'clock P. M., on the third Wednesday after each primary election

and organize by selecting a chairman, a secretary and a treasurer, by adopting rules and modes of procedure, and by selecting an executive committee consisting of from five to nine persons chosen from the county committee, of which executive committee the chairman and secretary shall be members. Such county committee shall at the same time select one person who shall be a legal voter to act upon and be a member of the state central committee of such party in all counties consisting of one legislative district, and in counties having more than one legislative district, the precinct committeemen from each legislative district shall select one person from their respective legislative district; and when two or more counties are embraced in one legislative district; and the county committee of each county shall meet at the court house of the county seat of the senior county of such district at two o'clock P. M., on the fourth Wednesday after such primary election, and select one person, who shall be a legal voter, to act upon and be a member of the state central committee of such party. The members so selected as state central committeemen shall meet at the state capitol on the first Wednesday in September and organize by selecting a chairman, a secretary and treasurer, and shall adopt rules and modes of procedure and promulgate and publish a platform or principle upon which its candidates shall stand. Each member of any committee shall retain such position until his successor is chosen. Every member so selected shall be a legal voter. Vacancies shall be filled by a majority of the committee by appointment from the district in which such vacancy exists. [1911, ch. 211.]

## ELECTION PRIVILEGES

§ 1. PRIMARY CAMPAIGN EXPENSES LIMITED.] No sum of money shall be paid, and no expenses authorized or incurred by or on behalf of any candidate to be paid by him, except such as he may pay to the state for printing, as herein provided, in his campaign for nomination to any public office or position in this state, in excess of fifteen (15) per cent of a year's compensation or salary of the office for which he is a candidate; provided, that no candidate shall be restricted to less than two hundred (\$200.00) in his campaign for such nomination; provided, that the provisions of this act shall not be construed to apply to the candidate's personal traveling expenses. No sum of money shall be paid and no expenses authorized or incurred contrary to the provisions of this act, for or on behalf of any candidate for nomination. [1911, ch. 129.]

§ 2. PUBLICITY PAMPHLET. CANDIDATES' STATEMENTS.] Any candidate for nomination to any state or district office, when the district is composed of one or more counties, may file with the secretary of state for publication as herein provided, not later than forty (40) days before the biennial primary nominating election, with his portrait cut if he wishes, a printed or typewritten statement, on the conditions set forth, over his signature, stating the reasons why he should be nominated. Each candidate shall be allowed one (1) page of printed matter, and those opposing him shall each be allowed one page of space on equal terms with him, as herein provided. [1911, ch. 129.]

§ 3. RATES.] Candidates for nomination shall pay for one page of space in the publication herein provided for as follows: For the office of United States senator, one hundred dollars; for representative in congress, one hundred dollars; for justice of the supreme court, seventy-five dollars; for governor, one hundred dollars; for secretary of state, one hundred dollars; for state treasurer, one hundred dollars; for state auditor one hundred dollars; commissioner of insurance, superintendent of public instruction, attorney general and commissioner of labor, each seventy-five dollars; for railroad commissioner twenty-five dollars; for senator or representative in the legislative assembly,



ten dollars; for district judge, fifty dollars; for county judge, register of deeds, county auditor, county treasurer, state's attorney, sheriff and county school superintendent, each twenty-five dollars. All payments required by this section shall be made to the secretary of state when the statement is offered to him for filing, and be by him paid into the general fund of the state treasury. Any candidate for state offices may have additional space, not exceeding three pages, at the rate of one hundred dollars a page, and any candidate for county or legislative office may have additional space not exceeding two pages, at the rate of twenty-five (\$25.00) dollars a page. [1911, ch. 129.]

§ 4. PRINTING STATEMENTS.] Not later than thirty days before the primary nominating election the secretary of state shall properly complete, edit, prepare, and index for printing all such statements and portrait cuts and cause the same to be printed in pamphlet form, printing and pictures of candidates with and as a part of their several statements, where such portrait cuts are offered; statements of those who directly oppose any candidate shall follow next after his statement. All of the statements filed for and against all the candidates for nomination to each office shall be printed in the order in which the candidates' names are grouped under the title of their offices on the official ballot at the nominating election. No picture, statement or argument for or against any candidate for nomination shall be included in the copy of the pamphlet going to any county where such candidate is not to be voted for. The said pamphlets shall be printed and delivered to the secretary of state as quickly as possible and the delivery shall be completed not less than twenty (20) days before the nominating election. [1911, ch. 129.]

§ 5. ADDRESSES OF VOTERS.] The several county auditors shall obtain the post office addresses of all voters in their respective counties which shall be taken from the registration lists in case of party registration, and in case no party registration then such addresses may be procured from the personal property tax books of that year and other authentic source, and on or before the thirtieth (30th) day preceding the nominating election, mail to the secretary of state the name, post office address and party registration of every such person, and at least twenty (20) days before the regular biennial primary nominating election, the secretary of state shall forward by mail to every such person a copy of the pamphlet containing the names and statements herein provided for. The pages of the pamphlet required by this act shall be six by nine inches in size, and the printed matter therein shall be set in eight point type, single leaded, and twenty-five ems pica in width, with proper headings. [1911, ch. 129.]

§ 6. GENERAL ELECTION CAMPAIGN EXPENSES LIMITED.] No sum of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate who has received the nomination to any public office or position in this state, except such as he may contribute toward payment of his political party's or independent statement in the pamphlet herein provided for in excess of fifteen (15) per cent of the annual salary of the office for which he is nominated; provided, that no candidate shall be restricted to less than two hundred dollars. [1911, ch. 129.]

§ 7. ITEMIZED STATEMENTS FILED.] Every candidate for nomination or election to public office, including the offices of senators of the United States, shall within fifteen days after the primary or general election at which he was a candidate, file with the secretary of state, if a candidate for senator of the United States, representative in congress, or for any state or district office, in a district composed of one or more counties, but with the county auditor for legislative districts composed of not more than one county, an itemized statement setting forth in detail all the moneys contributed, expended or promised by him to aid and promote his nomination or election, or both, as the case may be, and for the election of his party candidates, and all existing unfulfilled promises of every character and all liabilities in force at the time of such statement, and if no money or other valuable thing was paid or promised, he shall file a statement to that effect within fifteen days after the election at which he was a candidate. Any candidate who shall fail to file such statement shall be fined twenty-five dollars (\$25.00) for every day on which he was in default, unless excused by the court. [1911, ch. 129.]

§ 8. ACTUAL CONTRIBUTORS' NAMES.] No person shall make a payment of his own money or of another person's money to any other person in connection with a nomination or election in any other name than that of the person who in truth supplies such money; nor shall any person knowingly receive such payment or enter or cause the same to be entered in his accounts or record in any other name than that of the person by whom it was actually furnished. [1911, ch. 129.]

§ 9. PRE-ELECTION PROMISES OF APPOINTMENTS.] No person shall, in order to aid or promote his nomination or election, directly or indirectly promise to appoint another person or to secure or aid in securing the appointment, nomination or election of another person to any public or private position or employment, or to any position of honor, trust or emolument. [1911, ch. 129.]

§ 10. CHARITABLE CONTRIBUTIONS BY CANDIDATES. SOLICITATION THEREOF.] No person shall demand, solicit, ask or invite

§ 10. CHARITABLE CONTRIBUTIONS BY CANDIDATES OR OFFICE-HOLDERS, AND SOLICITATION THEREOF.] No person shall demand, solicit, ask or invite any payment or contribution for any religious, charitable or other such cause from any person who seeks to be, or has been, nominated to any office, and no such candidate shall make any such payment or contribution, or promise or agree to make the same, if it shall be demanded or asked during the time he is a candidate for nomination or election. No payment or contribution for any purpose shall be made a condition precedent to the putting of a name on any caucus or convention ballot or nominating paper or petition, or the performance of any duty imposed by law on a political committee.

*Provided*, however, that this Section shall not be construed as prohibiting any candidate for office from making contributions for a religious or charitable purpose to any organization or purpose to which he has theretofore ordinarily or customarily contributed; and no person shall be deemed prohibited at any time from contributing to any church organization or association of which he is actually a member.

*Provided*, further, this Section shall not be construed as making it unlawful for a candidate for office to make contribution to the central committees of the political party with which he is affiliated, but any such contribution so made shall be deemed a part of the expenditure limited in Section 6 of this Act. [1913, Chap. 15.]





any payment or contribution for any religious, political, charitable or other such cause from a person who seeks to be or has been nominated or elected to any office; and no such candidate or elected person shall make any such payment or contribution if it shall be demanded or asked during the time he is a candidate for nomination or election or an incumbent of any office. No payment or contribution for any purpose shall be made a condition precedent to the putting of a name on any caucus or convention ballot or nominating paper or position, or the performance of any duty imposed by law on a political committee. [1911, ch. 129.]

§ 11. CAMPAIGN CONTRIBUTIONS BY CORPORATIONS PROHIBITED.] No corporation, trustee or officer thereof as such, shall pay or contribute in order to aid, promote or prevent the nomination or election of any person, or in order to aid or promote the interest, success or defeat of any person or any political party or organization. And no person shall solicit or receive such payment from any corporation. [1911, ch. 129.]

§ 12. TREATING.] Any person or candidate who shall, either by himself or by any other person, either before or after election, or while such person or candidate is seeking a nomination or election, directly or indirectly, give or provide, or pay, wholly or in part, the expense of giving or providing any drink or intoxicating liquors to or for any person for the purpose or with the intent or hope to influence that person or any other person to give or refrain from giving his vote at such election to or for any candidate or political party ticket or measure before the people, or on account of such person or any other person having voted or refrained from voting for any candidate or the candidates of any political party or organization or measure before the people, or being about to vote or refrain from voting at such election, shall be guilty of treating. Every elector who accepts or takes any such drink or intoxicating liquors shall also be guilty of treating, and such acceptance shall be ground of challenge to his vote and of rejecting his vote on a contest. [1911, ch. 129.]

§ 13. PENALTY.] Any person shall be guilty of corrupt practice within the meaning of this act if he expends any money for election purposes contrary to the provisions of this statute, or if he is guilty of treating, undue influence, personation, or the giving or promising to give any money or valuable thing to an elector with the intent to induce him to vote or to refrain from voting for any candidate for public office. [1911, ch. 129.]

§ 14. EXPENSE OF VOTING. TRANSPORTATION PROHIBITED.] It shall be unlawful for any person to pay another for any loss or damage due to attendance at the polls, or in registering or for the expense of transportation to or from the polls. No person shall pay for personal services to be performed on the day of a caucus, primary convention or any election for any purpose connected therewith, tending in any way, directly or indirectly, to affect the result thereof, except for the hiring of persons whose sole duty is to act as challengers and watch the count of official ballots. No person shall buy, sell, give or provide any political badge, button or any insignia to be worn at or about the polls on the day of an election, and no such political badge, button or insignia shall be worn at or about the polls on any election day. [1911, ch. 129.]

§ 15. POLITICAL ADVERTISING LABELED PAID.] No publisher of a newspaper or other periodical shall insert either in its advertising or reading columns or any paid matter which is designed or tends to aid, injure or defeat any candidate or political party or organization or measure before the people, unless it is stated therein that it is a paid advertisement. No person shall pay the owner, editor, publisher or agent of any newspaper or other periodical to induce him to editorially advocate or oppose any candidate for nomination or election, and no such owner, editor, publisher or agent shall accept such payment. Any person who shall violate any of the provisions of this section shall be punished as for a corrupt practice. [1911, ch. 129.]

§ 16. ELECTIONEERING ON ELECTION DAY.] It shall be unlawful for any person at any place on the day of any election to ask, solicit or in any manner try to induce or persuade any voter on such election day to vote or refrain from voting for any candidate, or the candidates or ticket of any political party or organization, or any measure submitted to the people, and upon conviction thereof, he shall be punished by a fine of not less than five dollars, nor more than one hundred dollars for the first offense, and for the second and each subsequent offense occurring on the same or different election days he shall be punished by a fine as aforesaid, or by imprisonment in the county jail not less than five nor more than thirty days, or both such fine and imprisonment. [1911, ch. 129.]

§ 17. FAILURE TO FILE STATEMENT. NAME OMITTED FROM BALLOT.] The name of a candidate chosen at a primary nominating election or otherwise, shall not be printed on the official ballot for the ensuing election unless there has been filed by or on behalf of said candidate the statements of accounts



and the expenses relating to nominations required by this act, but delay in making such statement beyond the time prescribed shall not preclude its acceptance or prevent the insertion of the name on the ballot, if there is a reasonable time therefor after the receipt of such statements. [1911, ch. 129.]

§ 18. CANDIDACY BONA FIDE.] It shall be unlawful for any person to accept, receive or refrain from becoming a candidate for nomination or election, or by himself or in combination with any other person or persons to become a candidate for the purpose of defeating the nomination or election of any person and not with a bona fide intent to obtain the office. [1911, ch. 129.]

§ 19. CORRUPT PRACTICE. FORFEITURE OF OFFICE OR NOMINATION.] If upon the trial of any action or proceeding under the provisions of this act for the contesting of the right of any person declared to be nominated to any office or elected to any office, or to annul or set aside such election, or to remove any person from his office, it shall appear that such person was guilty of any corrupt practice, illegal act, or undue influence in or about such nomination or election, he shall be punished by being deprived of the nomination or office as the case may be, and the vacancy therein shall be filled in the manner provided by law. [1911, ch. 129.]

§ 20. CONTEST COMMENCEMENT.] Any action to contest the right of any person declared elected to any office, or to annul and set aside such election, or to remove from or deprive any person of an office of which he is the incumbent for any offense mentioned in this act must, unless a different time be stated, be commenced within forty (40) days after the return of the election at which such offense was committed, unless the ground of the action or the proceeding is for illegal payment of money or other valuable things subsequent to the filing of the statements prescribed by this act, in which case the action or the proceedings may be commenced within forty (40) days after the discovery of the complainant of such illegal payment. [1911, ch. 129.]

§ 21. GENERAL PENALTY.] Whoever violates any provision of this act, the punishment of which is not specifically provided by law, shall on conviction thereof be punished by imprisonment in the county jail for not more than six months, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. [1911, ch. 129.]

NON-PARTISAN JUDICIARY ACT.

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§ 1. In all petitions and affidavits to be filed by or in behalf of candidates for nomination at the primary election to the office of judge of the supreme or district court, no reference shall be made to a party ballot or to the party affiliation of such candidate. [1909 ch. 82.]

§ 2. All primary elections at which candidates for judge of the supreme or district court are to be nominated, there shall be separate ballots upon which shall be placed the names of the candidates for such offices, which ballot shall be entitled to "judiciary ballot," and the names of such candidates shall be placed thereon without party designation, and there shall be designated thereon the number of judges each elector is entitled to vote for. This ballot shall be delivered to each elector by the proper election officer, and the candidate on such "judiciary ballot" receiving the highest number of votes to the extent of double the number of those to be elected, provided there are that many or more candidates running for such office or offices, shall be duly nominated. [1909, ch. 82.]

§ 3. At the general election there shall be a separate ballot, upon which shall be placed the names of the candidates for judge of the supreme court and judge of the district court, who have been nominated as herein provided, which ballot shall be entitled the "judiciary ballot," and the names of all candidates shall be placed thereon without party designation, and there shall be designated thereon the number of judges each elector is entitled to vote for. This ballot shall be delivered to each elector, and the candidates on such "judicial ballot" receiving the highest number of votes to the number of those to be elected shall be duly elected. [1909, ch. 82.]

## NON-PARTISAN SCHOOL OFFICERS.

§ 1. NO PARTY BALLOTS.] In all petitions and affidavits to be filed by or in behalf of any candidate for nomination at any primary election to the offices of state superintendent of public instruction and county superintendent of schools, no reference shall be made to any party ballot or to the party affiliation of such candidate. [1913, ch. 153.]

§ 2. SEPARATE BALLOTS FOR SCHOOL NOMINATIONS.] At all primary elections at which candidates for the offices herein referred to are to be nominated, there shall be separate ballots which ballots shall be entitled, "Non-partisan school ballot," and the names of such candidates shall be placed thereon without party designation, and there shall be designated thereon the number of persons to be elected to each office. Except as herein provided, this ballot shall be prepared, printed, distributed, canvassed and returned in the manner now provided by law for primary election ballots, and shall be delivered to each elector by the proper election officers and, where there are three or more candidates for the same office, the two candidates receiving the highest number of votes for such office shall be duly nominated thereto, and where there are only two candidates for the same office, both candidates shall be duly nominated thereto. [1913, ch. 153.]

§ 3. BALLOTS AT GENERAL ELECTION.] At the general election there shall be a separate ballot upon which shall be placed the names of all candidates who have been nominated as herein provided, which ballot shall be entitled "School Ballot" and the names of all such candidates shall be placed thereon without party designation, and there shall be designated thereon the number of candidates for each office for whom each elector is entitled to vote. Except as hereinafter provided, this ballot shall be prepared, printed, distributed, canvassed and returned in the manner now provided by law for general election ballots. This ballot shall be, delivered to each elector, and the candidates for each office on such "Non-partisan school ballot" receiving the highest number of votes shall be duly elected to such office. [1913, ch. 153.]



## RATES FOR POLITICAL ANNOUNCEMENTS

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§ 1. RATES FOR POLITICAL ANNOUNCEMENTS.] No newspaper in this state shall charge for the publication of political announcements of candidates before any primary or election, any more than the legal rates for the publication of legal notices.

All paid political matter and political announcements shall be labeled "Political Advertisement."

Any person violating any provision of this act shall be deemed guilty of a misdemeanor. [1911, ch. 210.]

## PRIMARY ELECTION OF NATIONAL DELEGATES.

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§ 1. In the presidential election years, the qualified electors of the political parties subject to this law shall have opportunity to vote for their preference, on ballots provided for that purpose, for their choice among those aspiring to be candidates of their respective parties for president and vice president of the United States, shall have their party delegates to their national conventions, their presidential electors, and shall nominate and recommend their choice for national committeemen. The names of the aspirants in each such party for election for the office of president, for office of vice president of the United States, for national committeeman, for delegates to their national conventions, and for presidential electors, shall be printed on the party nominating ballot, provided for that purpose, and the ballot shall be marked and the votes shall be counted, canvassed and returned under the same conditions as to names, petitions and other matters so far as the same are applicable, as the names and petitions of party aspirants for the party nominations for the office of governor and of the United States senator in congress are, or may be by law required to be marked, filed, counted, canvassed and returned; provided, that aspirants for such presidential nominations need not file any personal petition nor signature; that certificates of the number of votes received by each such candidate shall be issued to the delegates who are elected for said party to the party national convention: that petitions to place on the nomination ballot the names and aspirants for such office or delegate to said national convention, presidential elector and national committeemen to be chosen and elected, as provided herein, shall be sufficient if they contain a number equal to one per cent of the party vote in the state at the next preceding election for representatives in congress, or not less than five hundred signatures of party voters. Every qualified voter shall have the right to vote for as many candidates for national delegates for his party and for the election of as many candidates for presidential electors as there are delegates and electors to be elected respectively, and each elector shall have a right to vote for one candidate to his party for na-

tional committeeman. A number of such candidates equal to the number of delegates to be elected and the number of presidential electors to be elected and the candidate for national committeeman, receiving, respectively, each for himself, the highest number of votes for such office or nomination, shall be declared elected. [1911, ch. 208.]

§ 2. On the eighth day after the election provided for herein, the county canvassing board shall meet as provided in section 582 of the revised codes of 1905, and shall canvass the returns in the manner now provided by law. The powers and duties of the board shall be the same in so far as applicable, as now are prescribed by law for canvassing the returns of other elections. [1911, ch. 208.]

SEC. 3. For the purpose of ascertaining the results of the election provided for in this act, the state canvassing board shall meet at the office of the secretary of state on the first Tuesday in May after such election and the secretary of state shall notify the other members of the board of canvassers of such meeting. [1911, ch. 208.]

§ 4. All persons desiring to be candidates for delegates to the national convention of their party and all persons desiring to be candidates for presidential electors and for national committeemen of their party shall, not later than the first day in March of each year, when a presidential election will take place, file with the secretary of state their petitions, as provided herein. [1911, ch. 208.]

§ 5. It shall be the duty of the secretary of state immediately after the first day in March of each year in which a presidential election will take place, to prepare and print ballots, at the expense of the state, with the names of all candidates of each party for the offices named in this act. In printing such ballots the secretary of state shall be guided by the provisions of law now in force relating to the preparation and printing of ballots for general elections. The provisions of the general election law applicable relating to the distinction of ballots, posting of sample ballots and of notices of the election shall apply to the distribution of ballots, posting of sample ballots and of notices of the election herein provided for, except as otherwise required herein. The secretary of state shall distribute the ballots among the county auditors, who in turn must deliver the same to the inspectors of election in the voting precincts of their respective counties. Notices of the election provided for herein shall be given in the manner prescribed by law for giving notices of city, village and township elections in such cities, villages and townships and in any other precincts,



notice of the election shall be given as now provided by law for general elections. [1911, ch. 208.]

§ 6. On the third Tuesday of March of every fourth year, when a presidential election is to be held, the members of the respective political parties shall express their choice for the election of the persons and officers named in this act, and whose names appear upon the ballot according to the provisions herein. Each elector shall be handed the ballot of the party with which he declares himself affiliated, or with which he may have registered at the last preceding registration or election, and such elector shall mark and vote the same in the manner provided herein. The polls shall be open during the same hours as at general elections herein provided for, in all cities, villages and civil townships the regular election officers thereof shall also act without further compensation as the election officers, and in unorganized townships and voting precincts outside of cities, villages and civil townships, the inspector and two judges of election, who acted as such at the last general election, or those who have been or may be appointed to fill such vacancies occurring in their offices, pursuant to law, shall act therein as the inspector and judges of election. In all matters not herein expressly otherwise provided for the provisions of any election law of this state, applicable to the case, shall govern. In every fourth year, when a presidential election is held, the time of all city elections shall take place on the third Tuesday in March, so as to conform to the provisions of this act, and in such event the city officers elected to office shall have until the second Tuesday in April in which to qualify for such office. [1911 ch. 208.]

§ 7. Every delegate to a national convention of a political party recognized as such organization by the laws of North Dakota, shall receive from the state treasurer the amount of his actual necessary traveling expenses, as his account may be audited and allowed by the secretary of state or state auditor, for actual attendance upon said convention, but not in any case to exceed \$200.00 for one delegate. The election of such national delegates for political parties are not subject to the direct primary law shall be certified in like manner as nominations of candidates of such parties for election to public office. Every such delegate to a national convention which nominated candidates for president and vice president shall subscribe an oath of office that he will uphold the constitution and the laws of the United States and North Dakota, and that he will, as such officer and delegate, to the best of his judgment and ability, faithfully carry out the wishes of his political party as expressed by the voters at said election. [1911, ch. 208.]

## PUBLICATION OF CANDIDATES' NAMES BEFORE PRIMARY ELECTION.

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SECTION 1. CERTIFIED LISTS OF NOMINEES.] At least twenty-five days before any primary preceding a general election, the secretary of state shall transmit to each county auditor a certified list containing the names and post office addresses of each person for whom nomination papers have been filed in his office and entitled to be voted for at such primary, together with a designation of the office for which he is a candidate, and the party or principle he represents. [1911, ch. 209.]

§ 2. PUBLICATION OF NOTICES.] The auditor to whom such list is delivered shall forthwith upon the receipt thereof, publish under the proper party designation the title of each office, the names and addresses of all persons for whom nomination papers have been filed, both in his office and in the office of the secretary of state, giving the names and addresses of each, the date of the primary, the hours during which the polls will be opened, and that the primary will be held in the regular polling place in each precinct. It shall be the duty of such auditor to publish said notice once each week for at least two consecutive weeks prior to said primary in each official newspaper in the county. [1911, ch. 209.]

§ 3. POSTING OF NOTICES.] Such auditor shall also forthwith mail copies of such notices to each township and village clerk and inspector of elections in unorganized townships, and to each city auditor of his county, who shall immediately post copies of the same in at least three public places in each precinct in his town, city or village, designating therein the location of the polling places in each election precinct. [1911, ch. 209.]

## CORRUPT PRACTICES ACT

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§ 1. CONTRIBUTIONS FOR POLITICAL PURPOSES PROHIBITED. PENALTY.] No corporation doing business in this state shall, directly or indirectly, pay or use, or offer, consent or agree to pay or use any money, property, or anything of value for or in aid of any political party, committee or organization or for or in aid of any corporation or association organized or maintained for political purposes, or for or in aid of any candidate for political office, or for the nomination of such officer or for any political purpose whatsoever, or for the reimbursement or indemnification of any person for money or property so used or for the purpose of influencing legislation of any kind. Any officer, director, stockholder, attorney, agent or representative of any corporation or association which violates any of the provisions of this act, who participates in, aids, abets or advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this act, shall upon conviction thereof be punished by imprisonment in the state penitentiary for not more than one year, or a fine of not less than two hundred dollars nor more than five thousand dollars or both such fine and imprisonment, and any officer aiding or abetting in any contribution made in violation of this act, shall be liable to the company or association for the amount so contributed. [1907, ch. 58.]

§ 2. NO PERSON EXCUSED FROM TESTIFYING.] No person shall be excused from attending and testifying or producing any books, papers or other documents before any court or magistrate upon any investigation, proceeding or trial for a violation of any of the provisions of this act, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him; but no person shall be prosecuted or subject to any penalty of forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceedings. [1907, ch. 58.]



§ 3. CORPORATION RESPONSIBLE FOR ACTS OF OFFICER OR AGENT.] The violation of this act by any officer, employee, agent, attorney or other representative of a corporation shall be prima facie evidence of said violation by such corporation. [1907, ch. 58.]

§ 4. PUNISHMENT FOR ADVISING VIOLATION OF ACT.] Any person or persons who shall aid, abet or advise a violation of the provisions of this act shall, upon conviction thereof, be punished as provided for in section one of this act. [1907, ch. 58.]

§ 5. PROSECUTION, WHERE BROUGHT.] Violations of this act may be prosecuted in the county where such payment or contribution is made, or in any county wherein such money or property has been paid or distributed. [1907, ch. 58.]

## REMOVAL OF OFFICERS

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§ 1. The governor may remove from office any county commissioner, clerk of the district court, county judge, sheriff, coroner, county auditor, register of deeds, state's attorney, county treasurer, superintendent of schools, county commissioners, surveyor, public administrator, mayor, chief of police, deputy sheriff or other police officer, or any custodian of public moneys, except the state treasurer, whenever it appears to him by competent evidence and after a hearing as hereinafter provided that such officer has been guilty of misconduct, malfeasance, crime in office, or for habitual drunkenness or gross incompetency. [1913, ch. 132.]

§ 2. The complaint or charges against any such official authorized to be removed by the governor shall be entitled in the name of the State of North Dakota, and shall be filed with the governor. It may be made on the relation of any five qualified electors of the county in which the person charged is an officer or the state's attorney of such county, and such complaint or charges shall be filed by the attorney general when directed so to do by the governor. When the officer sought to be removed is one other than the state's attorney, it shall be the duty of the state's attorney to appear and prosecute and when proceedings are brought to remove the state's attorney, the governor shall request the attorney general or some other competent attorney to appear on behalf of the state and prosecute such proceedings. [1913 ch. 132.]

§ 3. The complaint or charges shall state the charges against the accused, and unless filed by the state's attorney or attorney general shall be verified, and may be amended as in ordinary actions; provided, that if such amendment of the complaint or charges include any new or additional charge, then a reasonable time should be allowed the accused to prepare his defense thereto. [1913, ch. 132.]

§ 4. Whenever charges are made against any such officer, the governor shall appoint a special commissioner to take and report the testimony for and against the accused, to be used on the hearing. Such testimony shall be reduced to

writing and each witness shall subscribe his name to his testimony, when same is so reduced, and the governor in his discretion may, if in his judgment the best interests of the state shall require it to be done, by written order to be delivered to such officer suspend such accused officer from the performance of duty during the pendency of the hearing. If the governor shall so suspend the accused, he shall immediately notify the board or persons authorized to fill a vacancy in such office, and thereupon such board or person shall, within five days after receipt of such notice, appoint some competent person to fill such office and perform the duties thereof ad interim. [1913, ch. 132.]

§ 5. Upon the filing of any such complaint or charges the governor shall, within ten days, cause a copy thereof to be made and served upon the accused, together with a notice of the time and place of taking testimony and the name of the special commissioner before whom such testimony will be taken, and the date fixed for the taking of such testimony shall not be more than twenty days from the service of the copy of charges against the accused. [1913, ch. 132.]

§ 6. Whenever testimony has been taken upon charges filed against any officer, as hereinbefore provided, it shall be the duty of the special commissioner to forthwith report all such testimony to the governor and file the same in his office, and thereupon the governor shall fix a time and place for hearing on a day not more than ten days from the date of the filing of the commissioner's report, and not less than five days from the date of the service of notice of such hearing upon the accused at which hearing the accused shall be entitled to be heard in person or by attorney. If upon the hearing the charges are sustained, the governor shall forthwith make the order in writing, removing such officer from his office and cause a copy of such order to be delivered to the accused and one copy to be delivered to the board of persons having authority to fill a vacancy in such office, and thereupon such board or person shall, within five days thereafter, appoint some competent person to fill such office and perform the duties thereof, unless the accused had, prior to the final hearing, been suspended as hereinabove provided, and an ad interim appointment made. In such case the person appointed to such office ad interim shall continue until the expiration of the term for which the accused had been elected or appointed; provided, however, that in all cases where the accused person so removed deems himself aggrieved thereby, he shall be entitled to appeal from the decision of removal so made by the governor to any district court in this state upon filing a notice of appeal therefrom in



the office of the secretary of state within fifteen days after the date thereof. Such notice to set forth the grounds of appeal and thereupon such accused person shall be entitled to a trial *de novo* in such court as now provided by law; provided, that such trial be not held in the county wherein the accused resides. [1913, ch. 132.]

§ 7. The fees of the special commissioner herein provided for shall be the same as allowed by law to referees, and witnesses giving testimony for the prosecution before such commissioner shall be allowed the same fee as witnesses in district court. In cases of removal of a county officer, such fees shall be paid by the county upon allowance by the county board in the same manner as other claims against the county, and if a municipal or township officer, then by the city council, commission or township board, in the same manner as other claims against such municipality. If in such proceedings the commissioner shall authorize the taking of the testimony by a shorthand reporter, the fees of such reporter shall be the same as allowed the district court reporter, for like services, and such fees shall be allowed in the same manner as the fees of the commissioner and witnesses. [1913, ch. 132]

§ 8. When a special commissioner shall have been appointed as herein provided for, such commissioner shall forthwith take an oath and file same with the governor that he will impartially and to the best of his knowledge and ability, without fear, favor or prejudice cause to be taken all the testimony and evidence offered at the hearing for and on behalf of the prosecution and accused, together with all papers and other exhibits offered by either party, carefully preserve the same; that he will cause all of the oral testimony offered at the hearing to be correctly and fully transcribed, and as speedily as may be after the hearing attest the same as a full, true and complete record of all the evidence and testimony, including all exhibits offered at said hearing by either party, and cause same to be filed with the governor. Upon having taken and filed such oath the commissioner shall have authority to issue subpoenas for persons and subpoenas *duces tecum*, and administer oaths to witnesses, the same as now conferred upon justices of the peace, and such subpoenas may be directed to any sheriff, constable, chief of police or city marshal, who shall immediately serve the same, and such officer shall be entitled for his services in serving the same to the same fees as are now allowed to constables for serving subpoenas in civil cases in justice court, and such fees when served for the prosecution, shall be paid in the same manner as herein provided for wit-

ness fees for the prosecution, and commissioner fees; when served for the accused the accused shall be liable therefor to the officer serving the same. Provided, that such officer may demand of the accused his fees in advance for serving any subpoena for which the accused is liable, and that any witness subpoenaed by the accused may demand in advance from the accused his mileage and one days' witness fee before he shall be compelled to attend the hearing for which he has been subpoenaed. [1913, ch. 132.]

§ 9. When charges are preferred against any of the officers mentioned in this act by qualified electors other than the state's attorney or attorney general, as provided in Section 2, and upon the hearing it should appear that such charges were not reasonably sustained by the facts proven at such hearing, or that such charges were not preferred in good faith, then all of the costs of the proceedings under this act, not exceeding in the amount of one hundred dollars, may in the discretion of the governor be taxed to the persons making such charge. [1913, ch. 132.]

§ 10. If costs shall be taxed against the persons preferring charges against any of the officers mentioned in this act, it shall be the duty of the governor to certify such costs to the state's attorney of the county affected and it shall then be the duty of such state's attorney to proceed to put the same into judgment and to cause such judgment to be filed in the office of the clerk of district court in such county; and such certificate of the governor shall be prima facie evidence of the amount of costs therein stated. [1913, ch. 132.]

## ABSENT VOTERS.

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§ 1. ABSENT VOTER, WHO MAY VOTE.] Any qualified elector of this state having complied with the laws in regard to registration, who is absent from the county of which he is an elector on the day of holding any general or primary election, may vote at any such election as hereinafter provided. [1913, ch. 155.]

§ 2. APPLICATION FOR BALLOTS. MADE WHEN.] At any time within thirty days next preceding such election, any voter expecting to be absent on the day of such election from the county in which his voting precinct is situated, may make application to the county auditor of such county for an official absent voter ballot to be voted at such election. [1913, ch. 155.]

§ 3. ABSENT VOTER BALLOTS. HOW PRINTED.] For all elections, either general or primary, there shall be prepared and printed for each precinct, official ballots to be known as absent voter ballots, which ballots shall be prepared and printed in the same form and shall be of the same size and texture as the regular official ballots, except that they shall be printed upon tinted paper of a tint different from that of the sample ballots. [1913, ch. 155.]

§ 4. ABSENT VOTER BALLOT. FORM OF APPLICANT FOR.] Application for such ballot shall be made on a blank to be furnished by the county auditor of the county of which the applicant is an elector, and shall be in substantially the following form:

I, ....., a duly qualified elector of the township of....., of or the Village of..... or of the.....precinct of the.....ward of the city of....., in the county of....., and State of North Dakota, and to my best knowledge and belief entitled to vote in such precinct at the next election, expecting to be absent from the said county on the day for holding such election, hereby make application for an official absent voter ballot to be voted by me at such election.

Date.....

(Signed).....

Post Office Address.....



Provided, that if the application be made for a primary election ballot such application shall also give the name of the political party with which the applicant is affiliated. [1913, ch. 155.]

§ 5. APPLICATION BLANK, HOW OBTAINED.] Such application blank shall upon request therefor, be sent by such county auditor to any absent voter by mail, and shall be delivered to any voter upon application made personally at the office of such auditor. [1913, ch. 155.]

§ 6. BALLOTS SENT HOW. AFFIDAVIT OF VOTER AND CERTIFICATE.] Upon receipt of such application properly filled out and duly signed, or as soon thereafter as the official absent voter ballot for the precinct in which the applicant resides, has been printed, the said county auditor shall send to such absent voter by mail, postage prepaid, one official absent voter ballot, of (or) if there be more than one such absent voter ballot to be voted by an elector of such precinct, one of each kind, and shall enclose with such ballot or ballots an envelope to be furnished by such auditor; which envelope shall bear upon the front thereof the name, official title and post office address of such county auditor and upon the other side a printed affidavit in substantially the following form:

State of..... }  
County of..... } ss.

I, ....., do solemnly swear that I am a resident of the township of....., or the village of....., or of the.....precinct of the.....ward in the city of....., residing at.....in said city, county of....., and State of North Dakota, and entitled to vote in such precinct at the next election; that I expect to be absent from said county of my residence on the day of holding such election and that I will have no opportunity to vote in person on that day.

.....

Subscribed and sworn to before me this.....day of....., 19...; and I hereby certify that the affiant exhibited the enclosed ballots to me unmarked, that he then, in my presence and in the presence of no other person, and in such manner that I could not see his vote, marked such ballot, and enclosed and sealed the same in this envelope. That the affiant was not solicited or ad-

vised by me to vote for or against any candidate or measure.

.....

.....

Provided, that if the ballot enclosed is to be voted at a primary election, the affidavit shall state the name of the political party with which the absent voter is affiliated.

Note. If such absent voter is unable to sign his name, he shall make his mark (X) and the officer taking such affidavit shall sign such voter's name, and shall state the reason for such affidavit being signed in such manner, in his certificate attached to such affidavit. [1913, ch. 155.]

§ 7. MANNER OF MARKING BALLOT.] Such absent voter shall make and subscribe the said affidavit before an officer authorized by law to administer oaths and who has an official seal, and such absent voter shall thereupon, in the presence of such officer and no other person, mark such ballot or ballots, but in such manner that such officer cannot see the vote, and such ballot or ballots shall thereupon, in the presence of such officer, be folded by such voter so that each ballot shall be separate, and so as to conceal the vote, and be in the presence of such officer deposited by such voter in said envelope, and the said envelope securely sealed. Said envelope shall be mailed by such absent voter, postage prepaid. [1913, ch. 155.]

§ 8. CARE OF BALLOT BY AUDITOR.] Upon receipt of such envelope, such county auditor shall forthwith enclose the same, unopened, together with the written application of such absent voter, in a larger envelope which shall be securely sealed and endorsed with the name of the proper voting precinct, the name and official title of such auditor, and the words, "This envelope contains an absent voter ballot and must be opened only on election days at the polls while the same are open," and such auditor shall thereafter safely keep the same in his office until the same is delivered by him as provided in the next section. [1913, ch. 155.]

§ 9. TRANSMISSION OF BALLOT TO ELECTION INSPECTOR.] In case such envelope is received by such auditor prior to the delivery of the sealed package containing the official ballots to the inspector of elections of the precinct in which such absent voter resides, such ballot, envelope and application sealed in such envelope shall be enclosed in such package and delivered therewith to the inspector of such precinct. In case the official ballots for such precinct shall have been

delivered to such inspector of elections at the time of the receipt by the auditor of such absent voter ballot, such auditor shall immediately enclose such application and such ballot with the envelope containing such ballot, unopened, in a larger envelope which shall be securely sealed by him and endorsed on the front with the name, official title, name of precinct and post office address of the inspector of elections of the precinct in which such absent voter resides, and the words "This envelope contains an absent voter ballot and must be opened only on election day at the polls while the same are open," and forthwith mail the same, postage prepaid, to such inspector of elections. [1913, ch. 155.]

§ 10. MANNER OF VOTING. VOID OR REJECTED BALLOTS.] At any time between the opening and closing of the polls on such election day, the inspector or judges of election of such precinct shall first open the outer envelope only, and compare the signature of such voter to such application with the signature to such affidavit. In case the judge find the affidavit is sufficient and that the signatures correspond, and that the applicant is then a duly qualified elector of such precinct and has not voted at such election, they shall open the absent voter envelope, in such manner as not to destroy the affidavit thereon, and take out the ballot or ballots therein contained, and without unfolding the same, or permitting the same to be opened or examined, and having endorsed the same in the manner that other ballots are endorsed, deposit the same in the proper ballot box or boxes, showing by the records of such election such elector to have voted. In case such affidavit is found to be insufficient, or that the said signatures do not correspond, or that such applicant is not then a duly qualified elector of such precinct, such vote shall not be allowed, but without opening the absent voter envelope, the election inspector or a judge of such election shall mark across the face thereof, "Rejected as defective," or "Rejected as not an elector," as the case may be. The absent voter envelope, when such absent vote is voted, and the absent voter envelope with its contents, unopened, when such absent vote is rejected, shall be deposited in the ballot box containing the general or party ballots, as the case may be, retained and preserved in the manner as now by law provided for the retention and preservation of official ballots voted at such election. [1913, ch. 155.]

§ 11. ELECTOR MAY VOTE BEFORE LEAVING COUNTY. The provisions of this Act shall be construed so as to permit any qualified elector of this state who is present in this (his)



county after his official absent voter ballots of such county have been printed, and who has reason to believe that he will be absent from such county on election day as before provided in Section 2, to vote before he leaves his county, in like manner as absent voter, and any qualified elector who has marked his ballot as hereinbefore provided, who shall unexpectedly return to his precinct before or on election day, shall be permitted to vote in person, provided his ballot has not already been deposited in the ballot box. [1913, ch. 155.]

§ 12. BALLOTS FURNISHED AUDITOR, WHEN.] It shall be the duty of the secretary of state, county auditor, or any other officer by law required to prepare any general or primary election ballot, to prepare and have printed and delivered to the county auditor, at least fifteen days prior to the holding of such election, a sufficient number of absent voter ballots provided for in Section 5, for the use of all voters likely to be absent from such county on the day of such election. [1913, ch. 155.]

§ 13. PENALTY FOR VIOLATION.] If any person shall willfully swear falsely to the affidavit in Section 6 provided for, he shall upon conviction thereof be deemed guilty of perjury and shall be punished as in such case by law provided. If the secretary of state or any county auditor or any election officer shall refuse or neglect to perform any of the duties prescribed by this Act, or shall violate any of the provisions thereof, or if any officer taking the affidavit provided for in Section 6, shall make any false statements in his certificate thereto attached, he shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred (\$100.00) dollars, or by imprisonment in the county jail, or by both such fine and imprisonment. [1913, ch. 155.]

## COURT DECISIONS AFFECTING ELECTIONS

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Few laws enacted by the legislature of this state have been as often before the courts for judicial review as have the election statutes. That is true of every state in the Union. The syllabi and the excerpts from the decisions handed down in the cases which are given on the pages following have been selected with the idea in view that they will aid the voter as well as the election official. Leading cases are cited in each instance. Cases from other states have been included for the reason that North Dakota is comparatively a young state and as such, in the majority of cases, looks to the court decisions of other states on questions of law in as much as election statutes all over the country embody the same principles.

## COURT DECISIONS

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### HOW FAR THE RIGHT TO VOTE IS ABSOLUTE

In the case of *Allison v. Blake*, 25 L. R. A. 480, the Constitution prescribed the qualifications of an elector in elections for all officers, that were or would thereafter be elected by the people, and it was held that the legislature could not change them. This is sustained fully by all the cases on the power of the legislature to prescribe qualifications.

As to the power of the legislature to prescribe qualifications for electors where they are not defined in the constitution, or where the officers to be elected are not provided for in the constitution, it has been generally held that the legislature has that power. See note to *Coffin v. Thompson* (Mich.) 21 L. R. A. 662, as to right of women to vote; see also note to *Wolcott v. Holcomb* (Mich.) 23 L. R. A. 215, acquiring residence as a voter while attending school or public institution.

### AS AFFECTED BY ACTS OF CONGRESS

Congress has the power to legislate in regard to presidential or congressional elections. *Ex parte Yarbrough*, 110 U. S. 651, 28 L. ed. 274; *Ex parte Clarke*, 100 U. S. 399, *United States v. Munford*, 16 Fed. Rep. 223.

And in such matters if the regulations of a state should conflict with those of congress, the latter must prevail, and the former would be void. *Ex parte Siebold*, 100 U. S. 371, 25 L. ed. 717.

### RIGHT TO VOTE

The 14th Amendment to the Constitution of the United States provides: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States." And the 15th Amendment provides: "Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state, on account of race, color, or previous condition



of servitude." In *Spencer v. Board of Registration*, 1 McArth. 169, 29 Am. Rep. 582, the court held that these provisions were the creation of a constitutional condition that required the supervention of legislative power in the exercise of legislative discretion to give it effect. And further, that the constitutional capacity of becoming a voter was dormant until made effective by legislative action. 21 L. R. A. 662.

### RIGHT IS NOT ABSOLUTE

The right to vote is not an absolute one. *People v. Barber*, 48 Hun. 198. It is a right or privilege arising under the constitution of the state, and not under the Constitution of the United States. *United States v. Anthony*, 11 Blatchf. 200, where the defendant was prosecuted for illegal voting at an election for representatives for congress contrary to the New York law, and found guilty. If the right belongs to any particular person it is because such person is entitled to it by the laws of the state where he officers to exercise it, and not because of citizenship of the United States. *Ibid.* 21 L. R. A. 662. To the same effect, *People v. Barber*, 48 Hun. 198. Suffrage was not co-extensive with the citizenship of the states at the time it was adopted, and was not intended to make all citizens voters. *Minor v. Happersett*, 88 U. S. 21 Wall, 162, 22 L. ed. 627.

The 14th and 15th Amendments to the Constitution of the United States do not extend to the right of women to vote. *Van Valkenburg v. Brown*, 43 Cal. 43, 13 Am. Rep. 136.

RIGHT TO VOTE; ELECTIVE FRANCHISE.] The right of suffrage is not a natural or civil right but a privilege conferred upon the person by the Constitution or laws of the state. *Chamberlain v. Wood*, 15 S. D. 216, 56 L. R. A. 187, 88 N. W. 109.

The constitutional right of a duly qualified elector to vote is subject to legislative regulation which does not have the effect of practically destroying the franchise. *Miller v. Schallern*, 8 N. D. 395, 79 N. W. 865.

Residence for any length of time in a military reservation surrendered to the United States, without other reservation than the right to serve legal process in certain cases, cannot give the right to any person, whether connected with the army or navy or not, to vote at an election held in the county where such reservation is situated. *McMahon v. Polk*, 10 S. D. 296, 47 L. R. A. 830, 73 N. W. 77.

When the Constitution of a state has prescribed qualifications for voters and defined the qualifications of an officer it is not competent for the legislature to add to or in any way alter such qualifications, unless the power to do so is

conferred by the Constitution itself. *Johnson v. Grand Forks County*, 16 N. D. 363, 125 Am. St. Rep. 662, 113 N. W. 1071.

Qualified electors, as defined by N. D. Const. Sec. 121, are male person only, possessing the other qualifications therein enumerated. *Wagar v. Prindeville*, 130 N. W. 224.

Women entitled to vote for school officers under the provisions of N. D. Const. Sec. 128, constitute a class separate from electors as defined in section 121 of the Constitution, and only possess a limited franchise. *Wagar v. Prindeville*, 130 N. W. 224.

N. D. Rev. Codes 1905, Sec. 738 calling for the rejection of unregistered or unsworn voters, is mandatory. *Fitzmaurice v. Willis*, 127 N. W. 95.

The statutes relating to the registration of voters were unchanged by N. D. Laws 1907, chap. 109, Sec. 21, which provided that the list of voters at the primaries should take the place of the first day's registration, but which was void because not germane to the title of the act. *Fitzmaurice v. Willis*, 127 N. W. 95.

Under N. D. Const. Sec. 129, authorizing the legislature to pass laws regulating the conduct of elections it had power to enact that no vote should be received if the voter was not duly registered, or did not furnish an affidavit in lieu of the proper registration, such act being designed to prevent fraud. *Fitzmaurice v. Willis*, 127 N. W. 95.

The provisions of the registration law as contained in N. D. Rev. Codes 1905, Secs. 732-736, do not require women to register or to furnish an affidavit, as required of electors who are not registered, to entitle them to vote for school officers. *Wagar v. Prindeville*, 130 N. W. 224.

COURTS; INJUNCTION.] The supreme court will not, in the exercise of its original jurisdiction, issue an injunction restraining the inspectors of election from holding an election in election precincts as created by the county commissioners, on the ground that such precincts have been illegally created and do not conform to the statute, where such illegality amounts to a mere irregularity and will not vitiate the election to be held therein. *State ex. rel. Byrne v. Wilcox* 11 (N. D. 329; 91 N. W. 955).

INJUNCTION, TAXPAYER'S RIGHT OF ACTION.] The additional burden which may result to a taxpayer from the submission of a question at a general election is too trifling, fanciful, and speculative to constitute the basis of an injunction against submitting the question. *State ex rel. Cranmer v. Thorson*, 9 S. D. 149, 33 L. R. A. 582, 68 N. W. 202. (Cited with approval in dissenting opinion in *Segars v. Parrot*, 54

S. C. 69, 30 S. E. 1005, 31 S. E. 677, 865, in support of the proposition that substantial injury must threaten to warrant the issuance of an injunction against the performance of duties imposed upon public officers by an unconstitutional statute.)

POWER OF THE PEOPLE.] There is no inherent reserved power in the people to hold an election to fill a vacancy in an elective office. Such election can be held only when and as authorized by law. *State ex rel. McGee v. Gardner*, 3 S. D. 553, 54 N. W. 606.

While it is not essential to the validity of an election that every rule and detail prescribed by the election laws shall have been complied with, so long as it appears that an opportunity for a free and fair exercise of the elective franchise has been offered, yet when the failure to comply with such requirements tends to mislead and obstruct a full and fair exercise of such franchise, such disregard of requirements cannot be passed by with impunity. *Territory ex rel. Higgins v. Steele*, 4 Dak. 72, 23 N. W. 91.

Provisions of a statute governing the conduct of elections are mandatory when the purpose of the statute would be plainly defeated by a disobedience of them; but provisions a violation of which will not have that effect are merely directory. *Perry v. Hackney*, 11 N. D. 148, 90 N. W. 483.

An election is not rendered illegal and void by the fact that the election precincts were illegally created. *State ex rel. Byrne v. Wilcox*, 11 N. D. 329, 91 N. W. 955.

The ballots cast in an election precinct are not invalidated by the failure of the inspectors of election to provide doors or screens for the booths used at the election, pursuant to N. D. Rev. Codes, Sec. 521, requiring inspectors of election to provide booths where voters may mark their ballots, screened from observation, where the dereliction was free from fraudulent design, and did not interfere with the secrecy of the ballot, the voter's body and the sides of the booth shielding his ballot from observation while he was marking it. *Perry v. Hackney*, 11 N. D. 148, 90 N. W. 483.

DUTY OF JUDGES AND CANVASSING BOARD; RETURN.] Questions of the regularity of the elections, qualifications of voters, eligibility of candidates, fraud in the elections, etc., are exclusively for the courts in the proper proceedings, and are not matters which boards of canvassers have any authority to hear or determine. *Smith v. Lawrence*, 2 S. D. 185, 49 N. W. 7.

A poll book, with the entries therein provided for by Dak. Comp. Laws, Sec. 1467, sealed and forwarded by the judges



of election to the clerk or auditor, is the only document the law permits the county canvassers to examine, and it is the only document that should control or govern them in their actions; and they should disregard any other document which may be inclosed with the poll book, although it purports to be signed by the judges of election and to relate to their action with reference to certain votes cast at their precinct. *Smith v. Lawrence*, 2 S. D. 185, 49 N. W. 7.

The purely ministerial duty of canvassing the official statements of election returned by the various precinct officers, and of issuing a certificate of election to the candidate who, from such statements, appears to have the greatest number of votes, is imposed upon the county canvassing board by N. D. Rev. Codes, Secs. 527, 547, and the board has no authority to consider any other record of the votes, or the votes themselves, in determining who was elected, until the validity of such official statements of election has been impeached in proper judicial proceedings. *State ex rel. Sunderall v. McKenzie*, 10 N. D. 132, 86 N. W. 231.

The "returns" of election which the county canvassing board is instructed by N. D. Rev. Codes, Sec. 547, to receive and consider in making its canvass, consist only of the official statements of election and the poll book certified to the board of the officers of the various voting precincts under Sec. 526, and do not include the "tally sheets" kept by such officers; nor can authority to examine the original ballots be derived from Section. 526, providing for the preservation of the ballot boxes intact and delivery to the board upon its order. *State ex rel. Sunderall v. McKenzie*, 10 N. D. 132, 86 N. W. 231.

TIE VOTE.] Neither candidate for a county office is entitled to be declared elected by the canvassing board in case of a tie between them until the result of such election is determined by lot upon notice and in the manner provided by N. D. Rev. Codes, Sec. 528, relating to the duty of the county auditor in case of tie votes. *Howser v. Pepper*, 8 N. D. 484, 89 N. W. 1018.

#### CERTIFICATE OF ELECTION

A certificate of election issued by a canvassing board upon a count of votes from tally lists returned to them with the poll books of a precinct must be cancelled, when it appears from the official statements returned by the election officers of the precinct that another candidate has been elected. *Eakin v. Campbell*, 10 N. D. 416, 87 N. W. 991.

## BALLOTS; MARKING

The requirement of N. D. Rev. Codes, Sec. 491, as amended by Laws 1897, chap. 76, prescribing the manner of marking a ballot, is peremptory and on failure to comply there with the ballot must be disregarded. *Howser v. Pepper*, 8 N. D. 848, 79 N. W. 1018. (Approved in *Moody v. Davis*, 13 S. D. 92, 82 N. W. 410.)

FORM AND SUFFICIENCY OF MARK.] The voting mark upon a ballot need not take the form of a cross mark, under N. D. Rev. Codes, Sec. 491, as amended by Laws 1897, chap. 76, but may be either a "cross or mark." *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018. (Cited in note 47 L. R. A. 819 on Marking Official Ballot.)

A cross at the head of a party ticket is not effectual for any purpose unless made in the circle, under S. D. Laws 1893, chap. 80, Secs. 4, 6, declaring that a cross made in the circle at the head of a party ticket is a vote for all the candidates on that ticket. *Vallier v. Brakke*, 7 S. D. 343, 64 N. W. 180, Rehearing Denied in 7 S. D. 551, 64 N. W. 1119. Followed without special discussion in *LeClaire v. Wells*, 7 S. D. 428, 64 N. W. 519. Approved in *Parmley v. Healy*, 7 S. D. 403, 64 N. W. 186, *McKittrick v. Pardee*, 8 S. D. 44, 65 N. W. 23, *Howser v. Pepper*, 8 N. D. 495, 79 N. W. 1018. Same Point, *Parmley v. Healy*, 7 S. D. 401, 64 N. W. 186. (Approved in *McKittrick v. Pardee*, 8 S. D. 44, 65 N. W. 23, *Church v. Walker*, 10 S. D. 95, 72 N. W. 101 (holding that a cross made outside the circle at the head of a party ticket in addition to the cross made inside the circle renders it void. Cited in note (47 L. R. A. 830, on Marking Official Ballot.)

A cross mark on a ballot outside the square intended for such mark is not a compliance with the demands of N. D. Rev. Codes, Sec. 491, as amended by Laws 1897, chap. 76, that the mark be "in the square" and the vote cannot be counted. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018. Cited in note 47 L. R. A. 830, on Marking Official Ballot.

MARKS IN TWO OR MORE PARTY CIRCLES.] Crosses in the circles at the head of two or more party tickets neutralize each other, and must be disregarded as to all tickets so marked, and the ballot treated as though no cross were made at the head of any party ticket, under S. D. Laws 1893, chap. 80, Secs. 4, 6, providing for a cross in only one of such circles. *Vallier v. Brakke*, 7 S. D. 343, 64 N. W. 180, Rehearing Denied in 7 S. D. 551, 64 N. W. 1119. Followed without special discussion in *LeClaire v. Wells*, 7 S. D. 428, 64 N. W. 519. Approved in *Parmley v. Healy*, 7 S. D. 403, 64 N. W. 186,

McMahon v. Polk, 10 S. D. 302, 47 L. R. A. 830, 73 N. W. 77, Moody v. Davis, 13 S. D. 92, 82 N. W. 410, Perkins v. Bertrand, 192 Ill. 64, 61 N. E. 405 (counting for a candidate against whose name a proper cross mark had been placed, a ballot which bore cross marks at the heads of two party columns. Same Point, Parmley v. Healy, 7 S. D. 401, 64 N. W. 186. Cited in note (47 L. R. A. 837) on Marking Official Ballot.

A ballot which bears a cross after the name of each of two candidates for the same office, but showing clearly an attempt to erase one of the crosses, will be counted as a vote in favor of the candidate the cross in front of whose name bears no signs of erasure. Howser v. Pepper, 8 N. D. 484, 79 N. W. 1018. Cited in note (47 L. R. A. 844) on Marking Official Ballot.

HOW AND WHEN EFFECT OF MARK IN PARTY CIRCLE LIMITED.] The effect of a cross mark in the square at the head of a party column on an election ballot to include all the candidates of that party in his vote is nullified to the extent of particular candidates of other parties for whom the voter has signified his intention of voting by placing marks against their names. Howser vs. Pepper, 8 N. D. 484, 79 N. W. 1018.

A ballot on which an elector makes a cross in the circle at the head of a one-party ticket, and erases no name thereon, must be counted for such party ticket "throughout," under S. D. Laws 1895, chap. 80, Secs. 4, 6, notwithstanding a cross or mark opposite the name of any candidate on any other ticket. Vallier v. Brakke, 7 S. D. 343, 64 N. W. 180, Rehearing Denied in 7 S. D. 551, 64 N. W. 1119. Followed without special discussion in Le Claire v. Wells, 7 S. D. 428, 64 N. W. 519; Church v. Walker, 10 S. D. 94, 72 N. W. 101. Approved in Parmley v. Healy, 7 S. D. 403, 64 N. W. 186. Disapproved in Howser v. Pepper, 8 N. D. 496, 79 N. W. 1018. Cited in note (47 L. R. A. 837) on Marking Official Ballots. Same Point, Parmley v. Healy, 7 S. D. 401, 64 N. W. 186. Cited in note (47 L. R. A. 837) on Marking Official Ballot.

WRITING CANDIDATE'S NAME ON BALLOT.] A ballot which contains no cross opposite a candidate's name will be counted in his favor when it appears that his rival's name has been scratched out and his own written in place thereof on the proper line. Howser v. Pepper, 8 N. D. 484, 79 N. W. 1018. Cited in note (47 L. R. A. 841) on Marking Official Ballot.

No cross or other mark is necessary opposite names which have been written or pasted upon the official ballot opposite the office to be voted for, under N. D. Rev. Codes, Sec. 491,



as amended by Laws 1897, chap. 76. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018.

UNAUTHORIZED OR IDENTIFYING MARKS.] Unauthorized marks upon a ballot do not render it invalid unless made intentionally and in such way that a third person can ascertain without other aid that the ballot was deposited by a particular person. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018. Cited in note (47 L. R. A. 825) on Marking Official Ballot.

Judges of election should presume that a marking upon a ballot of a cross in pencil outside of a party circle in which a cross is stamped with the official stamp was inadvertently done and count the same, unless it has been marked intentionally and so as to enable a third person to determine from inspection of it, without other aid, that it was deposited by a particular person. *Church v. Walker*, 10 S. D. 450, 74 N. W. 198, Reversed on Rehearing on this Point 10 S. D. 90, 72 N. W. 101. Approved in *Howser v. Pepper*, 8 N. D. 498, 79 N. W. 1018. Cited in note (47 L. R. A. 826) on Marking Official Ballot.

A ballot should not be thrown out because it is somewhat defaced by ink blots where they do not appear to be intentional or to have been made for the purpose of marking the ballots, but to have been accidental, resulting mainly from the use of poor paper for the ballots. *Church v. Walker*, 10 S. D. 90, 72 N. W. 101, Modified on Rehearing in 10 S. D. 450, 74 N. W. 198. Cited in note (47 L. R. A. 819) on Marking Official Ballot.

A cross outside a square on an election ballot, or a cross in the square at the head of a party column on the ballot, followed by crosses opposite the name of each candidate and crosses opposite the blank spaces left open for writing in of names, are not identification marks *per se*, and in the absence of evidence *abunde* that they were so intended ballots displaying them will be counted. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1013. Cited in note (47 L. R. A. 825) on Marking Official Ballot.

OFFICIAL STAMPS; ELECTION OFFICERS' INITIALS.] The requirement of N. D. Rev. Codes, Sec. 524, that a ballot must have a precinct stamp and the initials of the inspector is constitutional and mandatory. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018.

The requirement of N. D. Rev. Codes, Sec. 524, that a vote in order to be valid must bear the official stamp and the initial of the inspector of elections, does not operate to destroy the voting franchise and is not unconstitutional. *Mil-*

ler v. Schallern, 8 N. D. 395, 79 N. W. 865. Approved in Howser v. Pepper, 8 N. D. 495, 79 N. W. 1018. Cited in note (47 L. R. A. 807) on Marking Official Ballot.

Ballots which fail to show the initials of an election precinct officer, as required by N. D. Rev. Codes, Sec. 524, are void. Lorin v. Seitz, 8 N. D. 404, 70 N. W. 869. Cited in note (47 L. R. A. 809) on Marking Official Ballot.

The omission of the official stamp or the inspector's initials from a ballot in disregard of the mandatory requirements of N. D. Rev. Codes, Sec. 524, renders the ballot void, and it should not be counted. Miller v. Schallern, 8 S. D. 395, 79 N. W. 865. Approved in Lorin v. Seitz, 8 N. D. 405, 79 N. W. 869. Cited in note (47 L. R. A. 809) on Marking Official Ballot.

A "general election" referred to in the North Dakota registration law comprises all the questions and offices submitted on the Tuesday after the first Monday in November in even numbered years. Fitzmaurice v. Willis, 127 N. W. 95.

Under the system of elections in North Dakota, every voter is entitled to the opportunity to vote for or against any question submitted, separately and independently from his vote for or against any other proposition submitted. Stern v. Fargo, 18 N. D. 289, 26 L. R. A. (N. S.) 665, 122 N. W. 403.

NOTICE OF ELECTION.] Where notice was given that an election was to be held in a certain building, but it was held at a place two blocks away, such change did not constitute such an irregularity as to render the election illegal and void, in the absence of a showing that any party by reason of the change in the polling place had been injured or any elector deprived of his right to vote. State ex rel. Walklin v. Shanks, 125 N. W. 122.

PLACE.] Where a voting place at a primary election is duly established by the county commissioners at a certain place, an election held at another place over three miles distant, pursuant to a resolution of a majority of the voters of the precinct assembled at a political meeting, is unauthorized, and the returns of the election at such place should not be canvassed. Elvick v. Groves, 17 N. D. 561, 118 N. W. 228.

BALLOT AS DISTINGUISHED FROM VOTE.] A majority of the votes cast upon a question submitted to a vote, if in the affirmative, carries it, unless the legislative will to the contrary is clearly expressed in the Constitution or the law. State ex rel. McCue v. Blaisdell, 18 N. D. 31, 119 N. W. 360.

A "ballot" as distinguished from a vote, is the sheet of paper on which the voter expresses his choice of candi-

dates, or for or against a proposition, or both. State ex rel. McCue, 18 N. D. 31, 119 N. W. 360.

#### MANDAMUS

The secretary of state is a proper but not a necessary party to an information to compel the county auditor to put on the official primary ballot the name of a candidate for senator, which action had been withheld on the ground that there was no vacancy, the certifying of the vacancy being a ministerial duty of the Secretary. State ex rel. Williams v. Meyer, 127 N. W. 834.

PARTY BALLOT.] The legislature has, within reasonable limits, the power to determine how many voters acting together for the purpose of making nominations shall be entitled to a party ballot, and the North Dakota statute providing only for the printing of ballots for parties casting 5 per cent. of the votes cast for Governor at the next preceding election is a reasonable regulation of an election held to make party nominations. State ex rel. Hagendorf v. Blaisdell, 127 N. W. 720.

A certificate of nomination, to which are affixed the requisite number of signatures, nominating a person as a candidate of the Socialist party for a state office, in other respects conforming to law, is a valid certificate, and entitles the party nominated to have his name placed in the column provided for individual nominations on the Australian ballot for use at the general election. State ex rel. Cooper v. Blaisdell, 17 N. D. 575, 118 N. W. 225.

RIGHT TO HAVE NAME PRINTED IN PARTY COLUMN.] The claim of a candidate for office to have his name printed in the regular party column where all the candidates in the column can be voted for at once by a mark at the head of the column, presents a question of substantial right. State ex rel. Howells v. Metcalf, 18 S. D. 393, 67 L. R. A. 331, 100 N. W. 923.

PRINTING NAME IN MORE THAN ONE COLUMN.] N. D. Rev. Codes 1899, Sec. 491, which prohibits the printing of the name of candidate for office in more than one column of the official ballot, is, as to a candidate who is the nominee of a single political party and the nominee of electors by petition, a reasonable regulation of the manner of exercising the right of suffrage, and is valid and constitutional. State ex rel. Fisk v. Porter 13 N. D. 406, 67 L. R. A. 473; 100 N. W. 1080.

PRINTED STICKERS.] Official ballots upon which the elector has placed printed stickers in the manner provided by



statute are not rendered unofficial by that fact, and must be received and counted. *Roberts v. Bope*, 14 N. D. 311, 103 N. W. 935.

Where the voter indicates his choice by writing the name upon, or by pasting a printed sticker containing the name upon the official ballot, a cross-mark after the name, so written or pasted is not necessary to entitle it to be counted. *Roberts v. Bope*, 14 N. D. 311, 103 N. W. 935.

The fact that the voter has attached a combination of stickers, covering the names of those upon the stickers, without severing the stickers and attaching them separately, does not render the ballot invalid. *Roberts v. Bope*, 14 N. D. 311, 103 N. W. 935.

Under the Australian ballot law an elector may indicate his choice by writing or pasting the name of a candidate in the space provided for that purpose, and over the names of an opposing candidate, even though the name so written or pasted on is printed on the official ballot in another column, and it must be counted. *Roberts v. Bope*, 14 N. D. 311, 103 N. W. 935.

**REGISTRATION LAWS.]** The prime purpose of the registration law is to prevent the perpetration of frauds in elections, and it must be construed in the light of such object. The object of the meeting of the board of registration on the dates fixed by statute preceding each general election is to provide for the preparation of the registration list, which is the culmination of the proceedings of the board of registration, without which their meetings and acts would be futile, as well as all other provisions of the registration statute.

It is held that, under all ordinary circumstances, the presence and use of such a list on the day of election in cities coming under the terms of the registration law is mandatory, and that all votes received in the absence of such list, and without being accompanied by the affidavit required of nonregistered voters, must be rejected. *Fitzmaurice v. Willis*, 20 N. D. 372.

**COUNTY SUPERINTENDENT.]** Sec. 764, Rev. Codes 1905, which prescribes that at each general election there shall be elected in each county a superintendent of schools, whose term shall be two years "and until his successor is elected and qualified," is a constitutional and valid enactment.

**INCUMBENT HOLDS OFFICE.]** Following the rule announced in *State ex rel. Bickford v. Babrick*, 16 N. D. 94, 112 N. W. 74, held that under such statute the regularly elected incumbent of the office is entitled to hold the same until his successor is legally elected and qualified.

A person who is ineligible to hold a public office cannot be elected thereto, and his election is a nullity. The word "elected," as used in Sec. 764, Rev. Codes 1905, signifies an election of a qualified successor to the incumbent.

The incumbent of a public office, who has the right to hold over until his successor is elected and qualified, has such a special interest as enables him to maintain an action under the provisions of chap. 25, Code Civ. Proc. (Secs. 7349 et seq., Rev. Codes 1905) against one who intrudes himself into such office, unless such right has been lost or waived in some manner either by the voluntary surrender of the office or by some other equivalent act. *Jenness v. Clark*, 21 N. D. 150.

NOMINATIONS.] Chapter 213 of the Session Laws of 1911, providing for party enrollment of electors by assessors before primary election, and prescribing the form of affidavit to be so required of each elector to entitle him to enrollment as a partisan, and to qualify him to vote at the coming primary election, construed and held:—

The legislature has the right to require nomination to be made at primary elections by the use of a ballot, and may provide that such election shall be conducted within organized political parties, and may deny the right to vote to those electors not belonging to any organized political party, and may require as a reasonable test to party fealty that the elector shall subscribe an oath stating that he belongs to an organized political party, and requiring him to designate it therein by name.

(a) The law requiring such a test and making the required oath a condition precedent to the right of an elector to participate at the party primary election is not unconstitutional as prescribing an added franchise requirement, or as restricting the right of suffrage, or as violating the secrecy of the ballot, within the meaning of Secs. 121, 122, and 129, of our state Constitution.

(b) Said constitutional provisions, a part of art. 5 of the state Constitution, are applicable to the extent of limiting such primary election to constitutional electors and guaranteeing a secret ballot at primaries, but are limited in application by the purpose for which the election is by the legislature provided, the power to declare such purpose being reserved to it by said constitutional provisions. The constitutional rights of the elector are not paramount to such contemplated legislative purpose; and a party primary election law is not rendered unconstitutional because the right of suffrage at the primary is made dependent upon the as-

section of a partisan belief by the elector, and because such election regulations forbid an elector from voting who belongs to no political party.

2. The portion of the statutory affidavit exacted upon enrollment, providing for proof of naturalization, is unconstitutional, because in operation it disfranchises from participating in any party primary election those electors naturalized by being within the terms of the act of Congress naturalizing certain foreign born residents within the limits of this state at the time of its admission into the Union. That said act is likewise void because it excludes those electors similarly naturalized by act of Congress because of having been residents of other states upon the admission of such states into the Union. Except as to such feature of the statute requiring proof of naturalization, the statute remains unaffected and in force.

3. The statute in question contemplates that both the minor reaching majority on or prior to election day, but after the return of the enrollment books to the auditor, and any male person of legal age naturalized by court decree during said period, may vote, and does not discriminate between the new voter and such naturalized elector, both of whom may participate at the primary election upon taking the oath required by the act, and similar to that provided by Sec. 738, Rev. Codes 1905.

Note.—The authorities on the constitutionality of primary election laws are collated in a note to the above case as reported in 41 L. R. A. (N. S.) 132, which is supplementary to the note in 22 L. R. A. (N. S.) 1136, on the same subject. As to the constitutionality of legislation affecting party representation on official ballot, see note in 35 L. R. A. (N. S.) 353. For the question whether primary elections are elections within Constitution or statutes relating to elections generally, see note in 18 L. R. A. (N. S.) 412. As to constitutionality of a statute prohibiting the nominating, recommending, or censuring of specified officers by certain organizations or at designated elections, including primary elections, see note in 23 L. R. A. (N. S.) 839. The question of the constitutionality of legislation restricting candidates to one place on ballot is the subject of a note in 37 L. R. A. (N. S.) 825. *State Ex Rel. Miller, Attorney General, et al. v. Flaherty, County Auditor*, 23 N. D. 313.

CONTESTS OF NOMINATIONS.] The provisions of chap. 109, known as the primary election law, in so far as they relate to contests of nominations, construed and *held*, that such contests must be initiated by serving upon the contestee



within ten days after the completion of the canvass of the ballots, an affidavit of contest setting forth the grounds therefor, and that the affidavit mentioned in Sec. 31 of said act, which may be made on information and behalf as a basis for procuring an order for a recount of the ballots, is not the affidavit of contest elsewhere referred to in said section. *Olesen v. Hoge*, 23 N. D. 648.

ESTABLISHMENT OF VOTING PRECINCTS.] In accordance with *Elvick v. Groves*, 17 N. D. 561, 118 N. W. 228, is *held* that where a voting place is duly established by the county commissioners, an election held at another place a considerable distance therefrom in the absence of special reasons, is unauthorized, and the returns thereof should not be canvassed.

Members of a canvassing board are presumed to know the locality of the designated voting places, and to take notice of the geography of the townships in their jurisdiction, and when returns clearly indicate that an election was held at a point distant from the designated place such board is justified in declining to canvass such returns, in the absence of special considerations. The trial court found, on inquiring into the facts, and on the demurrer and motion above referred to, in substance that on a contest of election there would be no justification for changing the certificate issued by the canvassing board, and declined to issue its writ of mandate. *Held*, that this was not an abuse of its discretionary power. *State Ex Rel. Johnson et al v. Thomas Ely et al*. 23 N. D. 619.

VALIDITY OF PRIMARY NOMINATIONS.] The validity of nominations properly certified and filed with the secretary of state in pursuance of N. D. Rev. Codes, Sec. 500, may be attacked by any interested citizen, and their certification to county auditor by the secretary enjoined if their invalidity is established. *State ex rel. Plain v. Falley*, 8 N. D. 90, 76 N. W. 996.

CERTIFICATE OF NOMINATION; TIME OF FILING.] A certificate of nomination filed with the secretary of state is invalid where it fails to comply with N. D. Rev. Codes, Sec. 499, requiring the certificate of nomination to state the name of the office for which the person named therein is nominated. *State ex rel. Anderson v. Falley*, 9 N. D. 464, 83 N. W. 913.

The provision of N. D. Rev. Codes, Sec. 503, requiring certificates of nomination to be filed with the secretary of state not less than thirty days before the date fixed for the election, is mandatory, and a certificate filed less than that period is invalid. *State ex rel. Anderson v. Falley*, 9 N. D. 464, 83 N. W. 913.

The provision of N. D. Rev. Codes, Sec. 5127, declaring that whenever an act of a secular nature is appointed by law or contract to be performed upon a particular day which falls upon a holiday, such act may be performed upon the next business day, does not apply to N. D. Rev. Codes, Sec. 503, requiring certificates of nomination to be filed with the secretary of state not less than thirty days before an election, as the latter section does not prescribe an act to be performed upon a particular day, but simply requires the act to be done not less than a prescribed number of days before the election. *State ex rel. Anderson v. Falley*, 9 N. D. 464, 83 N. W. 913.

The provisions of N. D. Rev. Codes, Sec. 503, requiring the filing of certificates of nominations with the secretary of state not less than thirty days before election, are not complied with by the filing of a void certificate more than thirty days before the election and the subsequent filing of an amended certificate, curing the defect, less than thirty days before the election. *State ex rel. Anderson v. Falley*, 9 N. D. 464, 83 N. W. 913.

A certificate purporting to fill a vacancy in a nomination, presented for filing less than thirty days before an election, stating neither the cause of the vacancy, whether by resignation, declination, or death, in the original nomination, nor the authority to fill it nor giving the name of the one whose place it is to be filled, does not comply with S. D. Sess. Laws 1891, chap. 57, and should not be filed, nor the name of the nominee thus designated printed on the ballots. *Lucas v. Ringsrud*, 3 S. D. 355, 53 N. W. 426. Approved in *State ex rel. Anderson v. Falley*, 9 N. D. 466, 83 N. W. 913. Distinguished in *Stackpole v. Hallahan*, 16 Mont. 58, 28 L. R. A. 502, 40 Pac. 80, holding that Secs. 11 and 12 of the Montana Australian ballot law of March 13, 1889, requiring that a nomination certificate state the nominee's business address, will not be held mandatory after an election, the effect of which would be absolutely to disfranchise a plurality of the voters of the district.

When no certificate of original nomination has been filed in the office of the secretary of state, there can be no substitution of names of nominees, under S. D. Sess. Laws 1891, chap. 57, because the secretary of state has nothing in his office showing who had been originally named for the office, and whose place the substitute is to fill. *Lucas v. Ringsrud*, 3 S. D. 355, 53 N. W. 426. Approved in *State ex rel. Anderson v. Falley*, 9 N. D. 465, 83 N. W. 913.

POLITICAL PARTIES.] Political parties are not the creatures of law but result from the voluntary association of electors.

and have inherent powers to regulate their own affairs, subject to reasonable legislative regulation. *Morrow v. Wipf*, 22 S. D. 146, 115 N. W. 1121.

N. D. Laws 1907, chap. 109, known as the primary election law, is not intended to provide for and regulate the nomination of candidates who do not stand for or represent a political principal or party; it being intended only to regulate party nominations. *State ex rel. Hagendorf v. Blaisdell*, 127 N. W. 720.

#### NOMINATION BY DIRECT VOTE

It is competent for the legislature to provide for the nomination of party candidates for elective offices by a direct vote of the members of the different political parties at an election for that purpose. *State ex rel. Montgomery v. Anders*, 18 N. D. 149, 118 N. W. 22.

While the legislature has the power to provide for nominations by a direct vote, and to prescribe rules and regulations for the conduct of primary elections and the government of political parties, such rules and regulations must be reasonable, and operate on voters and candidates of the same class with substantial equality, but absolute equality in all things is not a necessary requirement. *State ex rel. Montgomery v. Anderson*, 18 N. D. 149, 118 N. W. 22.

DESIGNATION OF POLITICAL PARTY.] While authorities are not in harmony as to what principles constitute the principles of Socialism, their main tenets are sufficiently understood and agreed upon, so the word "Socialist" may be used to designate a political party. *State ex rel. Cooper v. Blaisdell*, 17 N. D. 575, 118 N. W. 225.

CHANGE OF VOTING PLACE.] It is only in case of emergency or extraordinary circumstances that a change of a voting place at a primary election should be upheld. *Elvick v. Groves*, 17 N. D. 561, 118 N. W. 228.

QUALIFICATION AND CHALLENGE OF VOTERS.] A primary election is an "election" within the constitutional provision which prescribes the qualifications of voters at "any election." *Johnson v. Grand Forks County*, 16 N. D. 363, 126 Am. St. Rep. 662, 113 N. W. 1071. Cited in note 18 L. R. A. (N. S.) 412, on "primary elections" as within Constitution or statute relating to elections generally.

That part of the Primary Election Law providing that a voter at a primary might be challenged on the ground that he is not a member of the party whose ticket he is voting, and be required to swear that he is a member of such party



in good faith and that he intends to support the principles and candidates nominated at such primary, is valid as tending to conserve the purposes sought to be accomplished and does not preclude the voter from supporting the party of his choice, nor does it conflict with the Constitution in that it adds to the qualifications of electors prescribed thereby. *Morrow v. Wipf*, 22 S. D. 146, 115 N. W. 1121.

#### NAME ON BALLOT

The courts have power to compel the county auditor to put the names of candidates for senator on the primary election ballot, and in so doing do not infringe N. D. Const. Sec. 47, making the house judges of the election returns and qualifications of their own members. *State ex rel. Williams v. Meyer*, 127 N. W. 834.

BALLOTS.] A petition to have one's name placed on a primary election ballot is too late on the last statutory day if it is a legal holiday. *State ex rel. Miller v. Burnham*, 127 N. W. 504.

A citizen and elector may institute a proceeding to enjoin the secretary of state from certifying to the various county auditors the names of candidates for nomination for the office of United States Senator for the purpose of having such names placed upon the general election ballots, where it is alleged that the statute in pursuance of which certain certifications would be made is unconstitutional and void, and he has requested such proceeding to be instituted by the attorney general, and the latter has refused such request. *State ex rel. McCue v. Blaisdell*, 18 N. D. 55, 24 L. R. A. (N. S.) 465, 118 N. W. 141.

#### CERTIFICATES OF NOMINATION

Certificates of nomination, provided for by N. D. Rev. Codes 1899, Sec. 501, need not be verified. *State ex rel. Cooper v. Blaisdell*, 17 N. D. 575, 118 N. W. 255.

In the performance of his duties as secretary of state, in certifying the names of candidates for state offices to the different county auditors for printing upon the ballot to be used at the general election, the secretary acts in a ministerial capacity; and, when certificates of nomination filed with him are legal in form, it is not any part of his duty to examine into the facts recited in such certificates to ascertain their truth or falsity. *State ex rel. Cooper v. Blaisdell*, 17 N. D. 575, 118 N. W. 225.

The primary election law of this state, is common with all general laws regulating the elective franchise, is in all its

parts within the constitutional requirements that it must be just and reasonable, must have a uniform operation throughout the state, and must bear with substantial equality upon parties, candidates, and all classes of citizens. *State ex rel. Dorval v. Hamilton*, 20 N. D. 592.

### CONTESTS OF ELECTION

Ballots objected to because of marks are properly brought up on appeal in an election contest by a bill of exceptions, as the interpretation or construction to be given the markings upon them presents a question of law for the court, and not a question of fact for the jury. *Church v. Walker*, 10 S. D. 90, 72 N. W. 101, Modified on Rehearing in 10 S. D. 450, 74 N. W. 198.

The decision of the trial court upon the question whether certain ballots should be accepted or rejected may be reviewed on appeal, where the ballots in question were, by an order and certificate of the trial court, expressly made a part of the respective findings of fact to which the same relate. *McMahon v. Polk*, 10 S. D. 296, 47 L. R. A. 830, 73 N. W. 77.

**BALLOTS.]** Original ballots are the best evidence from which to determine the result of an election. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018.

The court must exclude ballots offered in evidence on an election contest, when it appears that deviations have been made from the official method of keeping them, as prescribed in N. D. Rev. Codes, Sec. 526, which necessarily resulted in exposing ballots to unauthorized persons, though if such deviations have been only slight, or such as do not necessarily cast doubt upon the identity and safe preservation of the ballots, the jury may pass upon the question of identity. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018.

Ballots will not be received in evidence which are contained in boxes, the custody of which after election is not retained by the election inspector, as provided for in N. D. Rev. Codes, Sec. 526, but which are left within reach of unauthorized persons for a period of over two months prior to the trial at which the votes which they contain are required as evidence. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018. Approved in *McMahon v. Crockett*, 12 S. D. 15, 80 N. W. 136.

The presumption in favor of the identity of ballots kept in the manner provided by statute is rebutted by proof of failure to comply with the statute, and the burden is cast upon the party demanding a recount to establish that the

ballots have not been tampered with. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018.

An allegation in an election contest that plaintiff was "duly elected" having received a majority of the legal votes cast at the election is not denied, so as to render necessary the introduction of evidence that plaintiff possesses the requisite qualifications, by a mere denial that he received a majority of the votes. *Church v. Walker*, 10 S. D. 90, 72 N. W. 101, Modified on Rehearing in 10 S. D. 450, 74 N. W. 198.

One voting at an election who is claimed on an election contest not to have been a qualified elector may be asked as a witness on direct examination generally for whom he voted, where no question of personal privilege is involved, and may be cross-examined in regard to the manner of marking his ballot. *Vallier v. Brakke*, 7 S. D. 343, 64 N. W. 180. Rehearing Denied in 7 S. D. 551, 64 N. W. 1119. Followed without special discussion in *Le Claire v. Wells*, 7 S. D. 428, 64 N. W. 519.

IN CONTEST OF TITLE TO OFFICE.] In an action to try title to office the burden of proof is upon the plaintiff and he cannot prevail merely by reason of the weakness of defendant's title. *Holan v. Beck*, 125 N. W. 1048.

In an action to oust a predecessor in office who retains possession plaintiff must show not only an actual vacancy in office but a valid appointment thereto. *Holtan v. Beck*, 125 N. W. 1048.

The fact that a duly elected and qualified sheriff continues to hold office and to resist demands that he surrender the same after the place of his residence prior to election has been separated from the county is sufficient to rebut the presumption of continuity of residence by the stronger presumption against the commission of an unlawful act. *Holtan v. Beck*, 125 N. W. 1048.



## COMPUTING TIME

Election notices and terms of office are construed under the same general rules, though there are some exceptions and variations, especially with reference to election notices, which are usually to be computed backward from the time of the election.

Thus, under a statute providing that certificates of nomination for candidates shall be filed with the secretary of the commonwealth at least sixty-six days before the day of the election, a certificate filed on the 13th of September is in season within the rule for the computation of time requiring the last day to be excluded but including the first, where election was to be held November 8. *Certificates of Nomination*, 1 Pa. Dist. R. 759. 49 L. R. A. 244.

And the term "five days exclusively" in a statute providing for notice of town meeting means five days inclusive of the day on which the notice is posted, but exclusive of the day on which the meeting is to be held, so that therefore, a meeting warned on the 26th of September, to be held on the 30th of September, is not legally warned. *Brooklyn Trust Co. v. Hebron*, 51 Conn. 22. 49 L. R. A. 244.

But where a voter is required by law to file an oath in a designated office at least five days before the day of election, the five days will be computed by excluding the day of filing where including it would lead to a forfeiture of the office. *State ex rel. Reitemeyer v. Gasconada County Ct.* 33 Mo. 102. 49 L. R. A. 244.

RESTRICTING VOTE WHEN SEVERAL OFFICERS ARE TO BE CHOSEN  
FOR THE SAME OFFICE

The case of *Com., McCormick, v. Reeder*, 33 L. R. A. 141, holds that Pa. act June 24, 1894, providing for an election of seven judges and restricting the right of an elector to vote for only six candidates upon one ballot for said office is not contrary to Pa. Const. 1874, art. 8, Sec. 1, providing that an elector shall be entitled to vote at all elections. This is a recent statute and decisions along similar lines are very few. The decision is based largely upon the fact that similar statutes in that state have been in force for many years and not disputed. It was held that the right "to vote at all elections" is not equivalent to the right to vote "for every candidate of a group of candidates for the same office." This case distinguishes the Ohio case of *State v. Constantine*, which held that "the right of each elector to vote for each office to be filled at an election has never been doubted," and says "in Pennsylvania the right of the legislature

to limit the vote to a less number than all of the officers to be elected has never been doubted," and bases the conclusion on the fact that the historical interpretation in Pennsylvania has been wholly different.

#### ACQUIRING RESIDENCE AS VOTER WHILE ATTENDING SCHOOL OR PUBLIC INSTITUTION

Some of the states have a constitutional provision to the effect that a residence is not gained or lost by reason of employment in the service of the United States, or state, nor while kept at an almshouse or asylum. This leaves the question to be determined by evidence outside of the fact of presence at such institution, although a residence may be gained there.

It is generally held that the inmates of a soldiers' home do not acquire the right to vote by reason of their residence in such institutions, but there are many things to be considered in regard to the qualifications of a voter as to his acquiring a new residence; abandonment of his former residence, and the intention to make a change, are all factors in determining the question of his right to vote. *Silvey v. Lindsay*, 107, N. Y. 55, reversing 42 Hun. 116. Nor does he acquire a new residence by being in the government service at a certain place. *People v. Holden*, 28 Cal. 123; *People v. Riley*, 15 Cal. 48.

Residence on lands ceded to the United States for navy yards, forts, and arsenals does not give the right to vote at state elections in such territory. Opinion of the Justices, 1 Met. 580; *Re Highlands*, 48 N. Y. S. R. 795.

#### INMATES OF ALMSHOUSE AND HOSPITALS

A pauper inmate of a poorhouse does not acquire thereby residence in a township in which a poorhouse is located, so as to enable him to vote there. *Clark v. Robinson*, 88 Ill. 498; *Dale v. Irwin*, 78 Ill. 170; *Esker v. McCoy* (Ohio) 6 Am. L. Rec. 694; *Covode v. Foster*, 4 Brewst. (Pa.) 414.

But in the case of *Re Elk Twp. Election*, 14 N. J. L. J. 263, it was held that an aged man who had been for a year or two working for farmers in that township, and whose only home was the county poorhouse in that township, was entitled to vote in that place. 23 L. R. A. 215.

And a voter who left his place of residence with no intention of ever returning, and finally went to another township to the county infirmary, with the intention to remain there permanently, having no family and no other home, with no intention of removing, and having no settlement in any

township, is entitled to vote where such infirmary is situated. *Mallannee v. Hills*, 2 Week, L. Bull. 61. 23 L. R. A. 215.

So where there is no constitutional or statutory provisions against an inmate of an almshouse acquiring a residence at such place, he may change his residence from his township and adopt and select one where the almshouse is located as his residence, if he is a voter and has no family in another township. *Sturgeon v. Korte*, 34 Ohio St. 525.

Persons at hospitals under treatment do not hereby obtain a residence there for the purpose of voting. Election Law, 9 Phila. 497.

### STUDENTS

A student at college, who is there for the sole purpose of obtaining an education, does not thereby necessarily acquire the right to vote at that place. *Allentown Contested Election Case*, 8 Phila. 575; Rep. of Jud. Comm. Cush. Mass. Election Cases, 436; *Vanderpoel v. O'Hanlon*, 53 Iowa, 246, 36 Am. Rep. 216. And is not entitled to vote there, unless it was his intention to remain permanently, or for some indefinite time, although he abandoned his father's house as his home after he was of age, and intended to make the place where the college was situated his only home while he was to remain there. *State v. Daniels*, 44 N. H. 383. And, if students come to college for no other purpose than to receive an education, intending to leave after graduating, they do not acquire a residence at that place. *Fry's Election Case*, 71 Pa. 302, 10 Am. Rep. 698. There must be evidence of complete abandonment of the former residence; but absence from it would be regarded as temporary, and too much weight should not be attached to declarations of present or future purpose by a student after the question of residence is raised; there must be other satisfactory evidence tending to show abandonment. *Lower Oxford Contested Election*, 11 Phila. 641. 23 L. R. A. 216.

In the case of *Granby v. Amherst*, 7 Mass. 1, it was said that a student of a college does not change his domicile by his occasional residence at college. But the fact that a student has continued to reside in the place of the college for a period of seven years, supporting himself by his own efforts and procuring a transfer of registration as voter, voting there and never voting at any other place, shows a bona fide intention to abandon the former residence. *Shaef-fer v. Gilbert*, 73 Md. 66.

Proofs of change of domicil so as to overcome the presumption of the continuance of the prior domicil, concurring with an actual residence of the student in the town



where the public institution is situated, will be sufficient to establish his domicile, and give him a right to vote in that town. *Opinion of the Justices*, 5 Met. 587. 23 L. R. A. 216.

A student who had formed the purpose of making W. his home for an indefinite period, when twenty-four years of age, and who was taxed there, and voted there for several years, is entitled to claim that place as his residence, although attending a theological institution in Massachusetts. *Sanders v. Getchell*, 75 Me. 158, 49 Am. Rep. 606.

In *Pedigo v. Grimes*, 113 Ind. 148, it was held that where voters after entering the state university determine that place should be their residence, they have a right to vote there if their intention was formed and acted upon in good faith. 23 L. R. A. 216.

It was held in *Putnam v. Johnson*, 10 Mass. 488, that a student at a theological institution, of age, qualified, and not under his father's control, is entitled to vote at the place of such college, notwithstanding it may not be his expectation to remain there forever. In this case, he had left his father's family several years before, and had become a resident of S. where he was taxed and permitted to vote; his father had ceased to support him, and he was at S. preparing himself for an independent living when he removed to the town the theological seminary was, which, as he was on a charitable foundation, required a residence of three years. If students abandon their former home and come to the town where the seminary is situated, to make that town their residence, leaving to the future to determine whether they shall enter a profession or some other business in that town, they acquire a residence there. *Re Ward*, 29 Abb. N. C. 187.

Under Ill. Rev. Stat. 1874, providing that a permanent abode is necessary to constitute a residence, students who are entirely free from parental control and regard the place of the college as their home and have no other to which to return in case of sickness or domestic affliction, are entitled to vote there. Generally, however, under-graduates of colleges are no more residents of a town in which they pursue their studies than mere strangers. *Dale v. Irwin*, 78 Ill. 170.

In the case of *Warren v. Board of Registration*, 2 L. R. A. 203, 72 Mich. 398, it was stated that the provisions of the Michigan constitution in regard to acquiring and losing a residence while a student, do not prevent persons from becoming residents if such is their purpose and if they are able to choose.

## IRREGULARITIES

The general rule in England as to irregularities is thus stated by Coleridge, Ch. J.: "The nonobservance of the rules or forms which is to render the election invalid must be so great as to amount to a conducting of the election in a manner contrary to the principle of an election by ballot, and must be so great as to satisfy the tribunal that it did affect or might have affected the majority of the voters, or in other words, the result of the election." *Woodward v. Sarsons* (1875) L. R. 10 C. P. 751. 16 L. R. A. 754.

Failure of the election officer to place his initials on the back of the ballots, as required by the law, does not invalidate such votes. *Jenkins v. Brecken* (1883) 7 S. C. Cand. (Duval) 247. 16 L. R. A. 754.

Even where the law declared that "the ballot paper shall be marked on both sides with an official mark," ballots not so marked on one side were counted, after elaborate consideration. *Ackers v. Howard* (1886) L. T. 16 Q. B. Div. 739. 16 L. R. A. 754-55.

Where the receiving officers placed their initials in the lower *right*-hand corner of the ballots instead of the lower *left*-hand corner, as the Indiana ballot law prescribed, the irregularity was considered harmless. *Parvin v. Wimberg*, Ind. Sup. 1892. 16 L. R. A. 755.

An election was held at two polling places in a township, one of which was not lawfully established, and the court (per Brewer, J.) sustained the result, saying: "It was the apparent creation of a voting precinct; and having been accepted by the people, the only ones interested in the matter, and acted upon by them as though it were in all respects legal and binding, the defects in the order cannot now be made the means of disfranchising a body of legal voters, innocent of wrong, seeking to exercise their rights of franchise and only misled by the officers of the law." *Wildman v. Anderson* (1876) 17 Kan. 347. 16 L. R. A. 755. But closing the poll a quarter of an hour before the time fixed by law was held in New South Wales to vitiate the return. *Ex parte Russell* (1881) 2 N. S. Wales, L. R. 82.

*What distinguishing marks or devices upon ballots will vitiate them*, is discussed in *Rutledge v. Crawford*, 13 L. R. A. 761, 91 Cal. 526; *People Onondaga County Board of Canvassers*, 14 L. R. A. 624, 129 N. Y. 395, and the *notes* to those cases.

## HARMLESS IRREGULARITIES

Where two voting places were appointed in a precinct entitled by law to but one, the irregularity was held immaterial. *Bell v. Faulkner* (Tex.) March 26, 1892.

Where the ballots were received, by the proper officers, at a poll, near the house appointed as the voting place but whose owner refused to permit its use, the election was upheld. *Preston v. Culbertson* (1881) 58 Cal. 198.

And so where some ballots were deposited by mistake in the wrong ballot box, in use for another election conducted at the same time on the same premises. *People v. Bates* (1863) 11 Mich. 362; 83. Am. Dec. 745.

## MARKING OFFICIAL BALLOT

The requirements of the indorsement of the initials of an election inspector or judge of elections upon the back of ballots is not an unreasonable or unconstitutional restriction of the right of suffrage. *Miller v. Schallern* (1899) 8 N. D. 395, 79 N. W. 865; *Lorin v. Seitz* (1899) 8 N. D. 404, 79 N. W. 869.

The requirements of the Australian ballot law adopted in Nebraska, that the names or signatures of two judges of election shall be written on the back of each ballot to be used, which shall be so folded by the voter as to disclose these signatures, and shall not be deposited by the judges unless so marked, and that, in canvassing, the ballots not so marked shall be void and not be counted, are clearly but regulative, and to assist in the honest, intelligent exercise of the right to vote, and not violative of the constitutional provision that all elections shall be free, and there shall be no hindrance or impediment to the right of a voter to exercise the elective franchise. *Orr v. Bailey* (1899; Neb.) 80 N. W. 495.

In regard to the construction of the law, it is said in *Pennington v. Hare* (1895) 60 Minn. 146, 62 N. W. 116, that there is a clear distinction between the provisions and prohibitions in election laws which are personal to the elector, if he violates which, it is his own fault, and those which apply to executive officers over whose conduct he has no control, the former being generally mandatory and the latter directory, unless otherwise expressly or by necessary implication so declared by statute.

In *Jones v. State ex rel. Wilson* (1899; Ind.) 55 N. E. 229, it is said that the purpose of all the election laws is to secure electors the correct expression of their choice in the selection of public servants, and that irregularities on the part



of election officers, not going to the time or place or other vital matter of the election, or their omission of acts not declared to be essential to the validity of the election, are to be held directory only in support of the voter's right to have his ballot counted as cast. 47 L. R. A. 807.

The mere fact that the judges of elections failed to indorse ballots with their names or initials, or indorse them in pencil not indelible, or that part only of the judges indorse them, does not require the rejection from the count of such ballots received and deposited by the judges under the Missouri statute providing that each ballot shall be indorsed with the names or initials of all the judges of election with ink or indelible pencil before delivery to the voter, the purpose of which is to secure the return to the judges of the same paper delivered to the voter, where the statute does not expressly declare that ballots not so indorsed shall not be counted, but only that the judges shall not deposit them. *Hehl v. Guion* (1900; Mo.) 55 S. W. 1024. 47 L. R. A. 808.

The absence of the election officer's initials does not vitiate the ballot, the statute not expressly creating such a cause and invalidity. *White v. Mackenzie* (1875) 20 Lower Can. Jur. 22, Wigmore, p. 195; *Grand v. McCallum* (1876) 12 Can. L. J. 113, Wigmore, p. 195. 47 L. R. A. 808.

The writing of the name of the voter upon the back of his ballot is a marking for identification in clear violation of the Minnesota election law, which provides that no voter shall divulge to anyone within the polling place the name of any candidate for whom he intends to vote or has voted, requiring their rejection. *Pennington v. Hare* (1895) 60 Minn. 146, 62 N. W. 116. 47 L. R. A. 812.

The writing of the voter's name upon the back of a ballot, it not appearing by whom it was written or that it was done for the purpose of identification, or that the ballot was folded so that the name could be seen, does not require the rejection of the ballot under the Missouri election law of 1891 providing that two of the judges of election shall write their names or initials on the back of ballots furnished voters, and that no other writing shall be on the back except the number of the ballot, as that provision refers to the time the ballot is delivered to the voter, and should only be considered as giving direction to the election officers in respect to the discharge of their duty, and is not mandatory upon the voter. *Lankford v. Gebhart* (1895) 130 Mo. 621, 32 S. W. 1127. 47 L. R. A. 812.

Almost every conceivable mark which a voter could make or omit to make has been the subject of discussion in the

various cases which have been before the courts. The voters have neglected to make such marks as to indicate their intent either wholly or partially, have marked in the wrong place, with the wrong kind of marks or with conflicting or contradictory marks, have made distinguishing marks and marked with the wrong implement; but through it all runs the rule of construction against disfranchisement if such construction can be given without violating some rule of law or policy. 47 L. R. A. 813.

The provisions of the Australian ballot law adopted in Nebraska, that votes shall be marked with a cross, is mandatory, and ballots on which the name of a candidate is written under the appropriate head without placing opposite his name the required cross cannot be counted for such candidate. *Martin v. Miles* (1896) 46 Neb. 772, 65 N. W. 889. 47 L. R. A. 815.

A ballot marked with a cross, although it is not as perfect as it might be, should be counted. *People ex rel Bantel v. Morgan* (1897) 20 App. Div. 48, 46 N. Y. Supp. 898. 47 L. R. A. 815.

Any mark, however crude and imperfect in form, if it is apparent that it was honestly intended for a cross-mark and for nothing else, must be given effect as such under the Minnesota statutes requiring ballots to be marked with a cross. *Pennington v. Hare* (1895) 60 Minn. 146, 62 N. W. 116.

Whenever the marking of a ballot evidences an attempt or intention to make a cross, though the cross may be in some respects imperfect, it should be counted, unless from the peculiarity of the mark made it can be reasonably inferred that there was not an honest design simply to mark the cross, but there was also an intention so to mark the paper that it could not be identified; but if the mark indicates no sign of complying with the law, but, on the contrary, a clear intent not to mark with a cross as the law directs, as by making a stright line, or a round O, such non-compliance renders the ballot null. *Hawkins v. Smith* (1884) 8 Can. S. C. 676.

The marking of crosses before the names of all candidates but one for a certain office, or the crossing out by pencil lines of all names for an office but one, in an attempt by the voter to follow the prior law which required the elector to express his preference by cancelling or making out the names of those who were not his choice is not sufficient to permit the counting of such ballots by the candidate before or on whose name no mark is made, under a law requiring the voter to make a mark to the left of the candidate for

whom he desires to vote, although it further provides that if it is possible to ascertain the voter's choice as to part of the officers on a ballot it shall be counted, as the requirements as to making is mandatory. *Van Winkle v. Crabtree* (1899) 34 Ore. 462, 55 Pac. 831. 47 L. R. A. 818.

Crosses indiscriminately appearing upon the face of the ballots, where it is evident that such crosses were simply the impressions of crosses made with a soft lead pencil, and caused by the folding of the ballots, do not invalidate them. *State ex rel. McMilan v. Sadler* (1899; Nev.) 58 Pac. 284. 47 L. R. A. 819.

There is a practical agreement that distinguishing marks will render the ballot void; but it is not always easy to tell what is a distinguishing mark. What constitutes an identifying mark is generally a question of fact for the trial court. *Welso v. Wright* (1906; Iowa) 81 N. W. 805. In some cases identifying marks on ballots are so apparent or conclusively identifying that the court may say as matter of law that they may be used for that purpose, and hence the ballots should be rejected under the Iowa statutes requiring their rejection where marked in any other way than is prescribed so that they may be used for the purpose of identifying the ballots; and in other cases where it is doubtful whether they could be so used it is a question of fact for the jury. *Voorhees v. Arnold* (1899) 108 Iowa, 77, 78 N. W. 795.

A ballot on which a mark or character is used, which though indicating an intention to vote a particular party ticket or for certain candidates, at the same time serves the purpose of indicating who voted it, thereby furnishing the means to designing persons of evading the law, will be rejected under the Illinois ballot law, although nothing is said in that act about distinguishing marks. *Parker v. Orr* (1895) 158 Ill. 609, 30 L. R. A. 227, 41 N. E. 1002. 47 L. R. A. 820.

Unauthorized marks not of a character to be readily used for the purpose of identification, or some slight mark inadvertently placed on the ballot by reason of the voter's unskilfulness, do not require the rejection of the ballot; but where the unauthorized marks are made deliberately, and may be used for the purpose of identifying the ballot, it should be rejected. *Whittam v. Zaborik* (1894) 91 Iowa, 23, 59 N. W. 57. 47 L. R. A. 824.

A ballot marked only with a cross at the head of a party column about  $\frac{1}{2}$  inch to the left of the square for voting the party ticket, cannot be counted under the North Dakota statute, requiring the marking to be done in the square.



Howser v. Pepper (1899) 8 N. D. 484. 79 N. W. 1018. 47 L. R. A. 830.

A ballot cannot be rejected because marked with a cross within the margin of the line to the left and immediately before the names of the candidates, where the statute does not designate whether the cross shall be placed to the right or the left of the candidate's name, but only provides that the voter shall prepare his ballot by placing a cross opposite the name of each candidate of his choice. Young v. Simpson (1895) 21 Colo. 460. 42 Pac. 666.

The marking of a ballot with a cross on the left in the same compartment as the candidate's name is valid. Haswell v. Stewart (1874) 1 Ct. of Sess. 925, 2 O'Malley & H 215, Wigmore, p. 190. 47 L. R. A. 832.

A cross not opposite the name of any candidate requires the rejection of the ballot, under the Nevada statute providing that any names, words, or marks, except as in the act provided, shall invalidate the ballot. Dennis v. Caughlin (1895) 22 Nev. 447, 29 L. R. A. 731, 41 Pac. 768. 47 L. R. A. 833.

The marking of a ballot with a cross above or below the name in the same compartment is valid. Haswell v. Stewart (1874) 1 Ct. of Sess. 925, 2 O'Malley & H. 215, Wigmore; p. 190. 47 L. R. A. 833.

Ballots marked with crosses opposite the names of particular candidates on one ticket, and also the names of some candidates on another ticket which is marked with a cross in the square at the head of it, should be counted for the candidate so specifically marked on the ticket, and not under the marked head, as the specific intention expressed by the individual markings nullifies the general intention evinced by the mark at the head of the party column so far as the markings of individual candidates are inconsistent therewith. Howser v. Pepper (1899) 8 N. D. 484, 79 N. W. 1018. 47 L. R. A. 835.

A ballot containing a lead pencil mark across the name of a candidate contains a distinguishing mark which prevents its being counted, under the Indiana election law forbidding the count of a ballot containing such a mark. Sego v. Stoddard (1893) 136 Ind. 297, 22 L. R. A. 468, 36 N. E. 204. Sego v. State *ex rel.* Stoddard (1894) 136 Ind. 700, 36 N. E. 208. 47 L. R. A. 839.

The marking of a ballot with a cross, and with a name, not the voter's, in addition, is invalid. Haswell v. Stewart (1874) 1 Ct. of Sess. 925, 2 O'Malley & H. 215, Wigmore, p. 190. 47 L. R. A. 841.

A ballot on which the name of a candidate is erased and another name written in should be counted for the latter, although no cross mark of any kind appears in the square opposite such name or elsewhere, under N. D. Rev. Codes, Sec. 491, which provides that the voter may write or paste a name on the ballot opposite the office to be voted for, and such name shall be counted whether marked or not. *Howser v. Pepper* (1899) 8 N. D. 484, 79 N. W. 1018. 47 L. R. A. 841.

A ballot marked with crosses opposite the names of two candidates for an office, one of which is very distinctly made and the other bears unmistakable evidence of an attempted erasure, is properly counted for the candidate opposite whose name the distinct cross appears. *Howser v. Pepper* (1899) 8 N. D. 484, 79 N. W. 1018. 47 L. R. A. 844.

#### DECISION OF TIE VOTE AT ELECTION

In North Dakota, where, by reason of a tie vote neither candidate for an office is elected, neither is entitled to the certificate of election until the tie is removed, upon the notice and in the manner provided for by N. Dak. Rev. Code, Sec. 528, relating to the duty of the county auditor in case of tie votes, and a certificate of election issued to one of the candidates prior to such determination is void. *Howser v. Pepper*, 8 N. D. 484, 79 N. W. 1018. 47 L. R. A. 551.

It would seem that in the absence of special statutory provision a tie vote creates a vacancy which can only be filled by appointment of a new election under some general provision with reference thereto, though in case of elections held in boards and bodies of limited membership the general rule giving the presiding officer a casting vote in case of a tie would apply. The method which has been most extensively adopted to meet the difficulty of a tie vote is by drawing lots as between the tie candidates, though in New Jersey there is a provision of a selection as between the tie candidates or a new election in the discretion of the electing body, and in Ohio there is a provision for an independent appointment in case of a neglect to elect or appoint to certain offices, which applies to a case of a tie vote. By the weight of authority these statutes are not unconstitutional, and have been enforced and given full effect, and held to prevent a vacancy in case of a tie vote. A few of the cases, however, have questioned their constitutionality, prominent among which is the principal case. 47 L. R. A. 564.

DOES "RESIDENCE," AS A QUALIFICATION OF VOTERS, MEAN  
"DOMICIL"

Whatever may be the distinction between the terms "residence" and "domicil," when used in other connections, it has been very generally held that the term "residence" as used in the various Constitutions or statutes as a qualification of voters, is the equivalent of, and means no less than, the term "domicil." This clearly supported by the following cases: *Sharp v. McIntire*, 23 Colo. 99, 46 Pac. 115; *French v. Lighty*, 9 Ind. 477; *State v. Savre*, 139 Iowa, 122; 3 L. R. A. (N. S.) 455, 113 Am. St. Rep. 452, 105 N. W. 387; *Opinion of Justices*, 5 Met. 587. 19 L. R. A. (N. S.) 759.

EFFECT OF LOSS OR DESTRUCTION OF REGISTRY LISTS

The Decision in *State ex rel. Reid v. Lebleu*, 28 L. R. A. 989, is supported by *State ex rel. Hampton v. Waldrop*, 104 N. S. 453, 10 S. E. 694, where it was held that the fact that the registration book of an election precinct had been lost did not invalidate the election, where the registrar procured another book, and entered therein the names of those who he knew had registered, together with those of subsequent applicants, and it appeared that no qualified person had been refused the right to vote. The court said: "The registration book should be present and used for the purposes prescribed by law at the voting place, while the election is in progress, and until all the votes are received. It should not—cannot—be dispensed with in any case, if it can be produced; but if it be lost, destroyed by accident, or made way with by fraud, or for fraudulent purposes, the mere fact that, by reason of such causes, it is not present at the election, as it should be, cannot deprive a registered voter of his right to vote. He had registered,—had perfected his right to vote by registration; he was a registered voter, as much so as if the registration book were present; and while the book is the proper and the better evidence of the fact, it is not the only evidence. He may offer evidence of the fact, if need be, by his own testimony, that of the registrar, and of such person or persons as were present and saw him registered. If in such case, the judges of the election should be satisfied that he was then properly registered, he should be allowed to vote, and he should be, although it might turn out that the absence of the registration book might, in some way and for some cause arising, destroy the validity of the election at that voting place." 28 L. R. A. (N. S.) 990.



### PERSONAL LIABILITY OF AN ELECTION OFFICER FOR REJECTING BALLOTS

It is a well established principle of law, in both America and England, that no action is maintainable against officers of election for refusing to receive a vote, if they have been guilty of no malice or fraud and have exercised their best judgment, though a legally qualified elector is thereby deprived of his right to vote. All the decisions supporting this principle, in which there is any discussion of the question, are placed upon the ground that, in passing upon the qualifications of a person offering to vote, election officers act judicially, and are not infrequently called upon to determine legal questions of great difficulty; and that to hold them personally responsible in damages for a mere error in judgment, even though a citizen may have been deprived thereby of his rightful vote, would be not only unjust in principle, but unwise in policy, for the inevitable result would be to turn honest and capable men from accepting an office attended with such hazard. So similar is the reasoning of these cases that it will be necessary to do no more than to cite them, together with those decisions which assert the principle without discussion. The following authorities, therefore, will all be found to be in accord with *Blake v. Brothers*, 11 L. R. A. (N. S.) 501. *Murphy v. Ramsey*, 114 U. S. 15, 29 L. ed. 47, 5 Sup. St. Rep. 747; *Isaacs v. McNeil*, 11 L. R. A. 254, 44 Red. 32; *Alden v. Hinton*, 6 D. C. 217; *Bernier v. Russell*, 89 Ill. 60; *Carter v. Harrison*, 5 Black f. 138; *Caulfield v. Bullock*, 18 B. Mon. 494.

### WHAT OBJECTS OR PURPOSES MAY BE COMBINED IN A SINGLE QUESTION SUBMITTED TO VOTERS

In *Hughes v. Horsky* (N. D.) 122 N. W. 799, it was held that under a statute providing for the submission of the question of the issuance of bonds for a courthouse or jail or both, when the erection of a courthouse and jail in one building is contemplated, and the notice so indicates, the question of issuing bonds may be submitted and voted upon as one question; but that when questions are presented, and although they may be submitted in the same notice, it must be so done that each voter may vote for or against each proposition independently of the other. The court, in distinguishing *Stern v. Fargo*, 26 L. R. A. (N. S.) 665, said: "In the *Fargo* case, we held, under the facts and law applicable to that proceeding, that the submission of the question of issuing bonds for part of a waterworks system and an electric light plant were two purposes, not naturally or neces-

sarily connected, and that therefore they could not be submitted in such manner that the voter must vote for or against both propositions. After careful consideration we are satisfied that the questions are not identical. The statute applicable to the issuance of bonds for county buildings is materially different, and we think contemplates the submission to the vote for or against bonds for a courthouse or jail together, provided the notice states that they are included in the same building. \* \* \* \* The county of Pierce is destitute of both courthouse and jail. They are necessary means for the administration of justice and the enforcement of criminal laws of the state, and in many ways serve a common purpose. It is the duty of the county to provide a suitable jail and a suitable place for holding court and for offices for the county officials. A jail without a place for the trial of criminals would be of slight use, and *vice versa*. Furthermore the legislature, in enacting the provisions of the Code quoted, must have been aware of and must have taken into consideration the custom which has long prevailed in this state, though less frequently followed now than in earlier times. We think that not less than one-half the counties in the state have provided a jail within the county courthouse. We are therefore of the opinion that the question of issuing bonds for the erection of a combined courthouse and jail may be properly submitted to be voted upon as one proposition. However, where the plan is to construct separate buildings for each purposes, although the statutory provisions might possibly bear the the same construction, we think, for the reason given in the Fargo case, that the questions of bonds for a courthouse and bonds for a jail should be separately submitted. They may be included in the same notice, but should be separately stated, and so arranged on the ballot that each may be voted on independently of the other. This construction will protect each voter, in all his rights, and harmonizes with the reasons applied in the best-considered cases, and will not be an attempted delegation of power by the voters to the county commissioners." 26 L. R. A. (N. S.) 669.

#### ELECTION OTHER THAN FOR SELECTION OF OFFICERS

In *Valverde v. Shattuck*, 19 Colo. 104, 41 Am. St. Rep. 208, 34 Pac. 947, Sec. 1 of article 7 of the Constitution read as follows: "Every male person over the age of twenty-one years, possessing the following qualifications, shall be entitled to vote at all elections;" and then follow the qualifications which relate to the period of citizenship. In an action to determine the validity of an act providing for the annexation of certain territory to a municipality, the court

held that some restriction must be placed upon the phrase "all elections" as used in the section of the Constitution quoted, else every person having the qualifications therein prescribed might insist upon voting at every election, private as well as public, and thus interfere with the affairs of others in which he had no interest or concern. The court said: "In our opinion the word 'elections,' thus used, does not have its general or comprehensive signification, including all acts of voting choice, or selection without limitation, but is used in a more restricted political sense,—as elections of public officers." 14 L. R. A. (N. S.) 850.

#### RIGHT OF CANDIDATE RECEIVING THE NEXT HIGHEST NUMBER OF VOTES

The great weight of American authority upon this question holds that, in order that a candidate may be legally elected, he must receive a majority of the votes cast, and that the mere fact that the one receiving the highest number proves ineligible confers no right to the office upon the one receiving the next highest number. The votes cast for such disqualified candidate are generally held to be legal votes, which may properly be counted, and which therefore require a second election in order that a candidate may be chosen who is legally qualified, and who receives a majority vote.

The English rule seems to be that, if the electors have sufficient notice of the ineligibility at the time of voting, the next highest candidate will be elected, as the votes cast under these circumstances are void, and not counted; and the Indiana decisions, as subsequently shown, are in harmony with the English doctrine, although it was not applied in *State ex rel, Clawson v. Bell*, 13 L. R. A. (N. S.) 1013, because the ineligibility of the candidate receiving the highest number of votes was not sufficiently notorious.

#### UPON WHAT BASIS IS THE MAJORITY TO BE COMPUTED

In *State ex rel. Little v. Langlie*, 5 N. D. 594, 32 L. R. A. 723, 67 N. W. 958, the court said that the plain meaning of a statute providing that, if upon the canvass of the vote it shall appear that any one place "has two-thirds of the votes polled," it shall be the county seat, is that all that is required in such proportion of the votes polled on that question, although less than the entire vote cast at a general election, as there is nothing in the statute indicating that any one place must receive such proportion of the votes of all the voters of the county, as the use of language indicating a



contrary intent is studiously avoided. 22 L. R. A. (N. S.) 483.

It was held in *State ex rel. McCue v. Blaisdell* (N. D.) 119 N. W. 360, that, in strict legal sense, the question of altering the boundaries of a county when voted upon at a general election is submitted at a special election, and requires for its adoption a majority of the votes cast on that question only, although less than a majority of all cast at the general election.

This doctrine was applied in *Davis v. Brown*, 46 W. Va. 716, 34 S. E. 839, where the question of changing a county seat, which was submitted at the general election, required the approval of three-fifths of all votes cast at said election, upon the question." The court said this language isolated and specialized this particular election for that purpose, and made it in effect a special election upon that question. 22 L. R. A. (N. S.) 485.

#### ASSISTANCE IN PREPARING BALLOTS

The primary purpose and object of the Australian ballot election law is to secure the independence of the elector by requiring of him the exercise of his right of franchise in absolute secrecy, and statutes, mandatory in their character, designed to accomplish this end, are mandatory on both the officials and the electors. Where electors voluntarily permit other persons than the authorized or acting poll clerks to assist them in the preparation of their ballots, the said ballots will be held to be intentionally exposed and will be rejected. *Board v. Dill*, 110 Pac. 1107. 29 L. R. A. (N. S.) 1170.

#### PRESERVATION OF BALLOTS

The rule of law is well settled, as declared in *Avery v. Williams*, 8 Ariz. 355, 76 Pac. 463, that where ballots have been preserved in strict accordance with the statutory requirements, so that they have in no way been tampered with, they are the primary and controlling evidence of the number of votes cast for the respective candidates, and are sufficient in themselves, without further evidence, to contradict and overthrow the returns. This rule is supported not only by all the authorities herein reviewed, but also by the following cases, in which it appeared that the ballots were preserved as required by law, and had not been tampered with: (*People ex rel. Budd v. Holden*, 28 Cal. 123;) *Ferguson v. Henry*, 95 Iowa, 439, 64 N. W. 292. 30 L. R. A. (N. S.) 602.

### “PRIMARY ELECTIONS” AS ELECTIONS

A primary election does not become a part of the general election by the fact that it is conducted at the same time as the latter, and through the same election machinery merely for the convenience and to save expense. *State ex rel. McCue v. Blaisdell* (N. D.) 118 N. W. 141. 18 L. R. A. (N. S.) 413.

### CONCLUSIVENESS OF CERTIFICATE OF NOMINATION

The supreme court will not exercise its original jurisdiction merely to determine which of two candidates for a county office received the greater number of votes at a nominating election.

The supreme court will exercise its original jurisdiction to determine whether or not, under a new primary election law, the certificate of nomination, when once issued, is conclusive and cannot be rescinded by the canvassing board, since the question is one of general importance to the state and could not be decided in the regular way in the short time between the primary and general election; but the court will not decide the ancillary question, which of two candidates for nomination for a certain office received the greater number of votes.

Mandamus may issue to determine which candidate should be represented by an official ballot, even before the time for the printing of the ballot arrives. *State of Wisconsin ex rel. Rinder v. Goff* 129 Wis. 668, 109 N. W. 628. 9 L. R. A. (N. S.) 916.

### CONSTITUTIONALITY OF PRIMARY ELECTION LAWS

A primary election law regulating the manner of nominating candidates for public office, providing for an appointment of judges and clerks of election by the county court, prescribing a test for party affiliation, and directing the manner of the election of committeemen, fixing their term of office and specifying their duties, does not violate that section of the Constitution forbidding restraint of any of the inhabitants of the state from assembling together in a peaceable manner to consult for their common good and, as such, being an unwarranted interference of party management, since the act merely provides for reasonable regulation, which is in the dominion of legislative authority. *Ladd v. Holmes*, 40 Ore. 167, 91 Am. St. Rep. 467, 66 Pac. 714. 22 L. R. A. (N. S.) 1137.

## POWER OF STATE TO IMPOSE QUALIFICATIONS

Under our system of government, the power to determine the qualifications that must be possessed by those persons who shall be entitled to vote at elections resides in the states. Among the absolute, unqualified rights of the states is the right of regulating the elective franchise. The United States have no voters of their own. Nor has the constitution of the United States given to the Congress the power to prescribe qualifications for electors in the states. The only restriction upon the power of the states to fix the qualifications of voters is that imposed by the fifteenth amendment to the constitution of the United States, which forbids any discrimination "on account of race, color, or previous condition of servitude:" McCrary on Elections, 2n ed., secs. 1-3; Morse on Citizenship, sec. 3; *Minor v. Happersett*, 21 Wall. 162; *United States v. Cruikshank*, 92 U. S. 542; *United States v. Reese*, 92 Id. 214; *Van Valkenburg v. Brown*, 43 Cal. 43; *Anderson v. Baker*, 23 Md. 531; *Huber v. Reily*, 53 Pa. St. 115; *Ridley v. Sherbrook*, 3 Cold. 569; *State v. Staten*, 6 Id. 233; Story on Constitution, secs. 581-582. The power of the state to determine the class of inhabitants who may vote is not curtailed by the fourteenth amendment to the constitution of the United States. The elective franchise is not one of the privileges or immunities mentioned in the first section of that amendment; *Van Valkenburg v. Brown*, 43 Cal. 43. In the case of *Dred Scott v. Sandford*, 19 How. 393, it was said by the majority of the court that a state may, by its laws passed since the adoption of the constitution of the United States, put a foreigner or any other description of persons upon the same footing with its own citizens as to all the rights and privileges enjoyed by them within its dominions. But that will not make him a citizen of the United States, nor entitle him to sue in its courts, nor to any of the privileges and immunities of a citizen in another state. The fifteenth amendment to the federal constitution has invested citizens of the United States with a new constitutional right, which is exemption from discrimination in the elective franchise on account of race, color, or previous condition of servitude: *United States v. Reese*, 92 U. S. 214; *Van Valkenburg v. Brown*, 43 Cal. 43. Its effect was to render absolutely null and void all provisions of a state constitution or of a state law that were in conflict with it, or with any act of Congress passed to enforce it, which is appropriate to that purpose; McCrary on Elections, 2d ed., sec. 2; *Van Valkenburg v. Brown*, 43 Cal. 43; *Wood v. Fitzgerald*, 3 Or. 568. There is one way in which Congress may affect the number of voters in a state. It may as a penalty impose upon a criminal the forfeiture of his citi-



zenship of the United States, and then if the state constitution allows only citizens of the United States to vote, such disfranchised persons will be deprived of the right to vote in such state: *Huber v. Riley*, 53 Pa. St. 112. 97 Amer. Dec. 263.

#### CONSTITUTIONALITY OF REGISTRATION LAWS.

The theory upon which the validity of laws for registration is sustained, is as is stated in the following cases: The constitution prescribes who are to have certain privileges; the legislature has authority to establish means whereby those who are entitled to these privileges may be ascertained. The registry is but evidence of the possession of a right, of the fact that those whose names it contains have shown that they have the qualifications required by the fundamental law of the state. It is no restriction upon the right itself that men should be asked to furnish evidence of it. And with this understanding of registration laws, they have been repeatedly passed and pronounced constitutional: *Byler v. Asher*, 47 Ill. 101; *Edmonds v. Banbury*, 28 Iowa, 267; S. C., 4 Am. Rep. 177; *Auld v. Walton*, 12 La. An. 129; *Hyde v. Brush*, 34 Conn. 454; *State v. Baker*, 38 Wis. 71; *Paterson v. Barlow*, 60 Pa. St. 54; *Monroe v. Collins*, 17 Ohio St. 665. That this is not the only evidence of the fact of being a qualified elector is expressly stated in those constitutional provisions above referred to, which say that the right to vote shall not be dependent upon a prior registration. And the statutes of those states, and some others, provide for the giving of other evidence, such as the production of an affidavit at the polls, the oath of householders of the district, and the like. 23 Amer. Dec. 642.

#### WHAT IRREGULARITIES WILL AVOID ELECTIONS

The numerous election contests of recent years particularly have served to quite firmly establish the rules governing elections, and to ascertain the character of irregularities which are essential to avoid an election. The tendency is clearly and distinctly noticeable to sustain the validity of an election if by any possibility this can be done. Elections should never be held void, unless clearly illegal: *State v. Freeholders*, 35 N. J. L. 269. And this principle has induced the courts to declare the provisions of election laws to be directory only, and not mandatory, in every case where this could legitimately and reasonably be done. The trend of American authority is summed up thus by the supreme court of Indiana in a recent case: "All the provisions of the election law are mandatory if enforcement is sought

before election in a direct proceeding for that purpose; but after election all should be held directory only, in support of the result, unless of a character to effect an obstruction to the free and intelligent casting of the vote, or to the ascertainment of the result, or unless the provisions affect an essential element of the election, or unless it is expressly declared by the statute that the particular act is essential to the validity of an election, or that its omission shall render it void:" *Jones v. State*, 153 Ind. 440, 55 N. E. 229. The same doctrine has been expressed in numerous decisions: See, especially, *Taylor v. Taylor*, 10 Minn. 107; *Russell v. McDowell*, 83 Cal. 70. 23 Pac. 183; *Fowler v. State*, 68 Tex. 30, 3 S. W. 255. In these last two cases it was pointed out that it was only those provisions of election laws relating to the time and place of holding elections, the qualifications of voters, and such others as are made essential prerequisites to the validity of an election that are mandatory. All others are directory merely. 90 Am. St. Rep. 49.





# Cross Index.

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For the convenience of the user of this election pamphlet a thorough cross index has been prepared. Every paragraph or item is indexed under at least four different letters, so that whatever is being sought may be found with ease and readiness.

## A

	Page
Absent voters .....	243
Absent voter ballots, how printed.....	243
Absent voter ballot, form of application for.....	243
Absent voter, ballots for, sent how.....	244
Absent voter, affidavit of, certificate as to.....	244
Absent voter ballot, manner of marking.....	245
Absent voter ballot, care of, by the county auditor.....	245
Absent voter ballot, transmission of, to the election inspector.....	245
Absent voter ballot, manner of voting the.....	246
Absent voter ballots, void or rejected.....	246
Absent voter ballots furnished by the county auditor, when.....	246
Absent voter privilege, penalty for violating the.....	247
Absent voter, when to apply for the ballot.....	243
Abstract of the voters.....	155
Abstract of the votes to be forwarded by the county auditor.....	157
Abstract of the votes to be filed by the secretary of state.....	157
Abstract of primary election votes filed with the secretary of state.....	218
Act, primary election, valid.....	222
Actual contributors names, election privileges act.....	226
Addresses of the voters, election privileges act.....	225
Adjournment of the state canvassing board.....	158
Advertisement of constitutional amendments.....	147
Advertising, political, labeled paid, election privileges.....	228
Advising unqualified voting, penalty.....	198
Affidavits of candidates at the primary election.....	205
Affidavits of the absent voter, certificate as to.....	224
All township candidates on one ballot.....	194
Aliens, their rights.....	38
Amendments, constitutional, certificates as to.....	160
Amendments, constitutional, vote on, record of.....	160
Amendments, constitutional, to be advertised.....	147
Amendments to the North Dakota Constitution, proposed.....	120
Announcement, immediate, of the election returns, Canvass.....	152

	Page
Announcement of the result of a township election.....	194
Announcements, political, rates for.....	232
Annual township meetings, held when.....	190
Answer to notice in legislative election contest.....	173
Answer to notice of contest of election.....	160
Appeal as to contest of nomination at Primary election.....	220
Appeals in contest of election cases.....	168
Appeals in contest cases, civil procedure when.....	169
Appeals to the supreme court in election contest cases.....	169
Appearance by parties to the election contest.....	171
Application blank for the absent voter ballot, how obtained.....	244
Application, form of, for absent voter ballot.....	243
Application for ballots by the absent voter, made when.....	243
Application must state the grounds for the contest of election.....	170
Appointment of election officers.....	136
Appointment, pre-election promises of, election privileges act.....	226
Arrangements of names on the primary election ballot.....	214
Arrangement of names, tally books at the primary.....	216
Arrangement of names on the general election ballot.....	141
Arrest for disturbing an election, not a defence.....	201
Arrest, summary, for disobeying an election officer.....	200
Articles on election contests, how construed.....	169
Attendance at election contest case, compelled when.....	174
Attendance, preventing, at a public meeting of electors.....	199
Auditor, county, to forward abstract of the votes.....	157
Auditor, county, care of absent voter ballot by.....	245
Auditor, county, absent voter ballots furnished to, when.....	247
Auditor, duty of, as to tie vote.....	156
Auditor to deliver the poll books.....	143
Auditor to furnish the ballots.....	142
Auditor to publish fact of nominations.....	146
Auditor to provide printed ballots.....	139

## B

Ballot, absent voter, application blank for, How obtained.....	244
Ballot, absent voter, care of by the county auditor.....	245
Ballots, absent voter, furnished the county auditor, when.....	247
Ballot, absent voter, manner of voting the.....	246
Ballots, absent voter, void or rejected.....	246
Ballot, absent voter, Form of application for.....	243
Ballots, absent voter, How printed.....	243
Ballot, absent voter, transmission of, to the inspector.....	245
Ballots, application for, by absent voter.....	243
Ballots and box, examined when.....	149
Ballots at the primary, form of.....	211
Ballot boxes .....	144
Ballot, certain township officers to be elected by.....	193
Ballots, certain, posted.....	143

	Page
Ballots for absent voter, sent how.....	244
Ballots for national delegates issued by the Sec. of State.....	234
Ballots, how delivered.....	143
Ballots, how prepared.....	139
Ballot, names arranged how.....	141
Ballot, name omitted from. Failure to file statement.....	228
Ballot, non partizan judiciary.....	230
Ballot, no party, in municipal election.....	186
Ballot, official, how given to the elector.....	149
Ballots of women to be deposited in separate box.....	151
Ballot, official, names placed thereon.....	219
Ballots or boxes, destroying.....	201
Ballots prepared by the County Auditor.....	142
Ballot, primary, arrangement of the names on.....	214
Ballots, primary election, prepared how.....	214
Ballot, primary election, vacancies on, how filled.....	219
Ballot, primary election, error as to, how corrected.....	220
Ballot, primary, vacancies on, filled by party committee.....	213
Ballot, secret, Electioneering prohibited.....	164
Ballot spoiled by the elector.....	150
Ballot to be deposited by the judge.....	150
Ballots to be printed and distributed, public expense.....	138
Ballots, township, to be deposited by the judges.....	194
Ballot, unstamped, penalty for depositing.....	164
Ballots, when void.....	152
Betting upon election, how punished.....	196
Blanks to be transmitted by the Secretary of State.....	144
Board, canvassing, state, duty of.....	158
Board of canvassers, how constituted.....	156
Board of Registry, time of meeting.....	176
Board of registration, second meeting.....	177
Board of registry has power to preserve order.....	180
Board of registry, members of, compensation of.....	180
Bona fide candidacy, under election privileges act.....	229
Booths, election, false swearing. Penalty.....	151
Booth to be occupied by one person only.....	150
Boundaries of election precincts.....	135
Box and ballots, examined when.....	149
Boxes, ballot.....	144
Bribes, giving or receiving by electors, penalty for.....	195
Bribing election officers.....	202
Bribing or influencing an elector, disfranchisement for.....	202
Bribery hearing, witness to, not excused.....	202

## C

Calendar, election.....	16
Campaign contributions by corporations prohibited under election privileges act.....	227



	Page
Campaign expenses, general election, limited under election privileges act .....	226
Campaign expenses, primary, limited under the privileges act.....	224
Candidacy bona fide, under election privileges act.....	229
Candidates at primary election, Affidavit as to.....	205
Candidates, certified list of, issued by the Secretary of State.....	236
Candidates, eligibility of, at the primary.....	211
Candidates, filing of the petition of, at the primary.....	210
Candidates for the primary, posting notices as to.....	236
Candidates for national delegates to file petitions.....	234
Candidates, list of, publication of.....	236
Candidates names, publication of, before the primary.....	236
Candidates, petition of, at the primary.....	209
Candidates statement under the privileges act. Publicity Pamphlet.....	224
Candidates, township, all to be on one ballot.....	194
Candidates name in one column only.....	141
Canvassing board, member of disqualified.....	157
Canvassers, board of, how constituted.....	156
Canvassing board, state, meeting of.....	158
Canvassing board, state, duty of.....	158
Canvassing board, state, adjournment of.....	158
Canvass of votes to be public.....	158
Canvassers, how to proceed.....	161
Canvassed, what returns shall be.....	161
Canvassing board, state, duty of, as presidential electors.....	159
Canvassing board, duty of, in regard to defective election returns.....	161
Canvass and returns of election to fill vacancies.....	163
Canvass, result of, to be immediately announced.....	152
Canvass of votes.....	151
Canvass of township votes, manner of.....	194
Canvassing or certifying, falsely.....	202
Canvass of the votes at the primary, Polls open when.....	216
Canvassing, county, board, for the primary.....	217
Canvassing board, statement, for the primary election.....	217
Canvassers, state board of, for the primary election.....	218
Canvassers, state board of, statement of, as to result of the primary.....	219
Canvassing board, county, meeting for canvass of votes under the primary election national delegates act.....	234
Canvassing board, state, canvassing for national delegates.....	234
Cards of instruction.....	138
Care of the absent voter ballot by the auditor.....	245
Caucus, unlawful voting at. Penalty.....	203
Certain township officers to be elected by the ballot.....	193
Certificate as to nomination by the Secretary of State.....	146
Certificate as to result of canvass of votes.....	159
Certificate as to constitutional amendments.....	160
Certificate as to absent voter. Affidavit.....	244
Certificate of Governor as to costs of a removal action.....	242

	Page
Certificates of nomination, where filed.....	144
Certificate of nomination to contain but one name.....	144
Certificate of nomination, When filed.....	145
Certificates of election.....	155
Certificates of election, Secretary of State to issue.....	159
Certificate of members of congress.....	159
Certificate of election, form of.....	160
Certificates of election as to legislative members.....	160
Certificate of board hearing contest cases.....	171
Certificates of nomination, false. Suppressing.....	201
Certified list of candidates under primary issued by the Sec. of State..	236
Certifying or canvassing, falsely.....	202
Challenge, duties of election officers.....	138
Challenges, misconduct of judges as to.....	202
Challenge to township voter.....	193
Charges against an officer must be laid before the Governor.....	239
Charges against an officer are stated in the complaint.....	239
Charitable contributions by candidates, under election privileges act .....	226
City Auditors, notify officers, elected or appointed.....	182
Citizenship statutes relating to.....	36
Citizenship, and naturalization.....	38
Clerks, poll .....	138
Clerk of election, duty of.....	179
Clerk to keep poll lists.....	138
Clerk, township, to give notice of meeting.....	192
Column, one, only for the candidates name.....	141
Commissioner in removal action to file oath of office.....	241
Commissioner, fees paid to, in removal action.....	241
Commissioners, municipal, how elected.....	185
Commissioner, special, to take and report testimony against officer....	239
Committees, county and state, under the primary, time and place of meeting .....	222
Committees, county and state, under the primary, how selected.....	222
Committees, party, what, continue under the primary.....	222
Committeemen, precinct, how elected under the primary.....	222
Communicating offer, penalty.....	196
Compensation of election officials.....	165
Compensation of officers for making returns of vote.....	153
Compensation of members of board of registry.....	180
Complaint against the officer must state the charge.....	239
Complaint against officers must be laid before the Governor.....	239
Complaint against officer under removal action, copy of.....	240
Congressional districts .....	19
Congress, members of, certificates of election.....	159
Constitutional amendments, etc. Certificates as to.....	160
Constitutional amendments to be advertised.....	147
Constitutional amendments, vote on, record of.....	160

	Page
Constitution of the United States.....	21
Constitution of the State of North Dakota.....	58
Construction of article on contests.....	169
Constructive false statements as to registration.....	199
Contents of the poll books.....	143
Contents of the statement of the canvassing board at the primary....	217
Contest, answer to, notice of.....	166
Contest, appeals in, to the Supreme Court.....	169
Contest, article on. How construed.....	169
Contest, application to state grounds of.....	170
Contest board, members of, per diem and mileage of.....	172
Contest cases, appeals in.....	168
Contest case, attendance at, compelled only in county.....	174
Contest cases, depositions, notice to take.....	173
Contest cases, depositions in, taken without notice.....	173
Contest case, effect of failure of petitioner to appear.....	172
Contest cases, examination of witnesses in.....	174
Contest cases, failure to attend and testify, penalty.....	174
Contest cases, fees of witnesses and officers in.....	175
Contest cases, final hearing of, how determined.....	172
Contest cases, hearing of, How conducted.....	171
Contest cases, no legislative expense in.....	175
Contest cases, papers in, to be attached to deposition.....	175
Contest cases, production of papers may be required in.....	175
Contest cases, subpoena in. How served.....	174
Contest cases, testimony in, forwarded to Secretary of State.....	175
Contest cases, taking of testimony may be adjourned.....	175
Contest cases, testimony in must be reduced in writing.....	174
Contest cases, testimony in, must be confined to issue.....	174
Contest cases, testimony in. Taken when.....	173
Contest, testimony taken when and where.....	174
Contest, determination of board hearing, how certified.....	171
Contest commencement, time limit for, under election privileges act..	229
Contest, contestant may apply to the court.....	170
Contest of election for removal of county seat.....	167
Contest of nomination at the primary, appeal.....	220
Contest of presidential electors elections, what court.....	170
Contest, in legislative election, notice of.....	172
Contest in legislative elections, answer to notice of.....	173
Contest may be brought by whom.....	166
Contest may be tried by referee.....	168
Contest, notice to party contested, how given.....	170
Contest, notice of. How served.....	165
Contest, parties to, appearance by.....	171
Contest, provision of code of civil procedure applicable when.....	169
Contest proceedings, costs of, taxation of.....	172
Contest, surety for costs of, must be furnished.....	168
Contest, testimony procedure in case of.....	167



	Page
Contest, trial of-----	167
Contestant may apply to court in contest cases-----	170
Contributing money for election, how punished, exceptions-----	197
Contributors' name entered, actual, under election privileges act-----	226
Contributions, charitable, by candidates, under election privileges act -----	226
Contributions for political purposes by corporations prohibited-----	237
Convicted felon, Denied a vote-----	198
Corporations, contributions by, for political purposes prohibited-----	237
Corporations prohibited from giving campaign contributions under election privileges act-----	227
Corrupt practice, penalty for, under election privileges act-----	227
Corrupt practices act-----	237
Corrupt practice, contributions by corporations prohibited-----	237
Corrupt practice act, no excuse from testifying under-----	237
Corporation responsible for act of officer or agent under corrupt pract- tice act -----	238
Corrupt practice act, corporation responsible for act of agent under---	238
Corrupt practice act, punishment for advising violation of-----	238
Corrupt practice act, prosecution under, where brought-----	238
Corrupt practice, under election privileges act, Forfeiture of office of nomination -----	229
Cost of contest proceedings, taxation of-----	172
Costs of contest. Surety for must be furnished-----	168
Costs of action for removal of officer, assessed how-----	242
County auditor to provide blank registers and blanks-----	180
County and legislative candidates for the primary-----	209
County canvassing board for the primary-----	217
Counties, two or more, in the primary election district, when-----	218
County and state committees under the primary, how selected-----	222
County Auditor to prepare ballots-----	142
County commissioners to provide ballot boxes-----	144
County Auditor makes publication of nominations-----	146
County Auditor to forward abstract of votes-----	157
Court decisions affecting elections-----	248-287
County seat, removal of, contests of election for-----	167
Court districts -----	20
Court, terms of-----	20
Courts for trial of presidential electors contests-----	170
Court may hear application of contestant in contest case-----	170
Crimes against the elective franchise-----	195
Criminal acts. Questions submitted to voters-----	203

## D

Dates, election -----	16
Date of the general election-----	133
Date of publication-----	146

	Page
Decision as to a tie vote.....	155
Decisions, court, affecting elections.....	248-287
Declination of nomination by the nominee.....	146
Defective returns, duty of the canvassing board. Penalty.....	161
Defence, arrest for disturbing an election not a.....	201
Defence, irregularities as to election duties no.....	203
Defination of an election.....	202
Defrauding an elector of his vote.....	197
Delegates, national, primary election of.....	233
Delegates, national, canvassing votes for, County board.....	234
Delegates, national, state canvassing board.....	234
Delegates, national, candidates for, file petitions.....	234
Delegates, national, ballots for, issued by the Secretary of State.....	234
Delegates, national, primary election for, held when.....	235
Delegates, national, traveling expenses of.....	235
Delivery of the ballots.....	143
Delivery of the poll books.....	143
Depositing of the ballot by the judge.....	150
Depositions of non resident witness may be taken in contests.....	174
Depositions in contests, taken without notice on stipulation.....	173
Depositions notice to take, in contest cases.....	173
Destroying ballots or boxes.....	201
Destroying supplies, lists or cards.....	201
Determination of the final hearing in contest cases.....	172
Determination of boards hearing contests, how certified.....	171
Directory of the state officials.....	5
Disability of the elector.....	150
Disfranchisement for bribing or influencing an elector.....	202
Disobedience of election officers.....	200
Disobedience of election officers, summary arrest for.....	200
Disqualification of a member of the canvassing board.....	157
Disqualification of the election officer.....	136
Distribution of the ballots.....	138
Districts and precincts, municipal election.....	181
Districts, congressional.....	19
Districts, judicial.....	20
Districts, legislative.....	18a
District Court, term of.....	20
District, primary election. When two or more counties in.....	218
Disturbance of a public meeting of electors.....	199
Disturbing an election, violence.....	200
Disturbing an election, arrest for, not a defence.....	201
Devision of a legislative district subsequent to an election.....	163
Double voting or offer, penalty for.....	197
Duties of the judges and inspectors at the primary.....	211
Duties of the election officers.....	136
Duty of the judge and inspector to challenge.....	138
Duty of the canvassing board.....	158

	Page
Duty of the Governor in case of certain vacancies.....	163
Duty of the clerks of the election.....	179
Duty of the township moderator. Reconsideration of the vote.....	193
Duty of the township clerk.....	195

## E

Effect of municipal elections .....	182
Election booths, False swearing, Penalty.....	151
Election, betting upon, penalty.....	196
Election calendar .....	16
Election certificates .....	155
Election, certificates as to. Secretary of State to issue.....	159
Election certificate, form of.....	160
Election certificate as to legislative members.....	160
Election, court decisions effecting.....	248-287
Election day, selling liquor on.....	203
Election defined .....	202
Election, disturbing, arrest for, not a defense.....	201
Election duties, Irregularities as to, no defense.....	203
Election, informality in returns disregarded.....	161
Election Law, primary.....	205
Election laws, violation of, penalty for.....	165
Election, members of congress, certificates as to.....	159
Elections municipal, biennial.....	183
Elections, municipal, time and place of.....	181
Election notice, how given.....	148
Election notice to be published.....	148
Election officers, their duties.....	136
Election officials, compensation of.....	165
Election officers, disobedience of.....	200
Election officer, disobedience of. Summary arrest.....	200
Election officers, bribing.....	202
Election officers, oath of office.....	138
Election precincts .....	135
Election, polls of, opened and closed when.....	149
Election, primary, for national delegates, when held.....	235
Election privileges act.....	224
Election provisions, general, what, applicable to the primary.....	215
Election, result of, proclaimed by the Governor.....	161
Election returns, mutilation of. Penalty.....	204
Election supplies, examined when.....	149
Election supplies .....	138
Election, violence disturbing.....	200
Election, what constitutes.....	134
Electioneering prohibited, Secret ballot.....	164
Elector, bribing or influencing, Disfranchisement for.....	202
Elector, defrauding as to vote.....	197



	Page
Elector, disability of.....	150
Elective Franchise, crimes against.....	195
Elector, giving or receiving bribes, penalty.....	195
Elector, illegal influence, penalty.....	196
Elector intimidating .....	199
Elector may vote before leaving the county.....	246
Elector may write name of candidate on ticket.....	139
Electors, notice to by the clerk, what to contain.....	192
Electors of the township, powers of.....	191
Electors, presidential, canvass of votes as to.....	159
Electors, presidential, convene when.....	163
Electors, presidential, per diem and mileage of.....	164
Electors, presidential, Contest of, what court.....	170
Electors, public meeting of. Preventing.....	199
Electors, violence, threats ,etc.....	200
Eligibility of candidates at the primary.....	211
Enrollment and registration books for primary election.....	207
Enrollment of name on primary day.....	208
Error as to the primary election ballot. How corrected.....	220
Error in publication, how corrected.....	148
Examination of ballots and box at opening of polls.....	149
Examination of witnesses in contest cases.....	174
Exceptions, contributing money for elections.....	197
Expense of voting. Transportations prohibited under election privi- leges act .....	228
Expenses, primary campaign, limited under privileges act.....	224
Expenses, traveling of the national delegates.....	235

## F

Failure of officer to perform duty, penalty for.....	164
Failure of petitioner to appear, Effect of, in contest cases.....	172
Failure to attend and testify in contest cases. Penalty.....	174
Failure to file statement. Name omitted from ballot.....	228
Failure to qualify, new municipal election.....	182
Failure to elect, township meetings, proceedings of.....	195
False statement preventing registration.....	199
False certificates of nomination. Supressing certificate.....	201
False poll list.....	201
False statements as to registration, constructive.....	199
False swearing. Election booths, Penalty.....	151
Falsely canvassing or certifying.....	202
Fees for filing a petition for primary election.....	205
Fees of officers and witnesses in contest cases.....	175
Fees paid to commissioner taking testimony in removal action.....	241
Fees under the primary law paid to the county.....	221
Felon, convicted. Denied a vote.....	198
Filing of certificates of nomination.....	144

	Page
Filing of abstract of votes by the Secretary of State.....	157
Filing of register.....	179
Filing fee and pledge of candidates for the primary.....	209
Filing of the petition of the candidate at the primary.....	210
Filing of vacancies on the ticket.....	146
Filing of vacancy on ticket after printed.....	147
Final hearing of contest cases, how determined.....	172
Forfeiture of office or nomination under election privileges act. Cor- rupt practice .....	229
Form of election notice.....	148
Form of certificate of election.....	160
Form of petition in municipal elections.....	190
Form of the ballots used at the primary election.....	211
Form of petition under the primary law.....	211
Form of application for the absent voter ballot.....	243

## G

General election campaign expenses limited under election Privileges act .....	226
General election laws.....	132
General election, when held.....	133
General Penalty for violation of provisions of election privileges act..	229
Giving of official ballot to the elector.....	149
Good faith of voter. Given in evidence.....	203
Governor, duty of, in case of certain vacancies.....	163
Governor issues proclamation as to result of the election.....	161
Governor, certificate of, as to costs of action for removal of officer.....	242

## H

Hearing of contest cases, how conducted.....	171
Hearing, time and place of, in action for removal of officer.....	240
Held, when, Primary election.....	205
Highest number elects.....	134

## I

Illegal influence, elector, penalty.....	196
In case elector spoils the ballot.....	150
In case of the disability of the elector.....	150
In case nominee declines, certificate void.....	146
Indian voters, their rights.....	134
Indorsement of election returns by the Secretary of State.....	162
Informality in returns disregarded.....	161
Initiative, municipal .....	188
Inspector challenge .....	138
Inspectors of election in unorganized townships.....	137

	Page
Inspectors of election.....	136
Instruction to be printed.....	143
Intent of the primary election law.....	205
Interference, lawful. Rights of an officer.....	203
Intimidating electors .....	199
Invalidity of certificates. When.....	146
Irregularities as to election duties no defense.....	203
Issue, testimony must be confined to, in contest cases.....	174
Itemized statements filed under election privileges act.....	226

## J

Judges and inspectors at the primary election, duty of.....	211
Judges of election .....	136
Judges, conduct of, as to challenges.....	202
Judge to challenge.....	138
Judges to deposit ballot in box.....	150
Judges to deposit township ballots.....	194
Judges to canvass the township votes.....	194
Judiciary ballot, non partizian.....	230
Judicial districts .....	20
Judiciary, non-partizian, act.....	230
Judges and clerks of municipal election, oaths and duties of.....	182

## L

Legislative and county candidates for the primary.....	209
Legislative districts .....	18
Legislative district divided subsequent to election.....	163
Legislative elections, contest in, notice of.....	172
Legislative members, certificates of election as to.....	160
List of the officers to be nominated at the primary.....	215
List of candidates. Publication of, before the primary.....	236
Liquor, selling, on election day.....	203

## M

Manner of canvassing township votes.....	194
Manner of marking the absent voter ballot.....	245
Manner of voting the absent voter ballot.....	246
Marking, manner of, absent voter ballot.....	245
Meeting of the state canvassing board.....	158
Meetings, township, annual, when held.....	190
Meetings, township, special, held when.....	192
Meetings, township, notice of to be given by the clerk.....	192
Member of canvassing board disqualified.....	157
Members of congress, certificate as to election.....	159
Members of congress, district.....	19



	Page
Members of contest board, mileage and per diem of.....	172
Mileage and per diem of Presidential electors.....	164
Mileage and per diem of members of contest board.....	172
Minutes of township meeting to be filed.....	194
Misconduct of judges, Challenges.....	202
Mode of conducting township meetings.....	192
Money for elections, contributing, how punished, exceptions.....	197
Moderator, township, duty of, Reconsideration of the vote.....	193
Municipal commissioners, how elected.....	185
Municipal elections, biennial .....	183
Municipal election district and precincts.....	181
Municipal elections, effect of.....	182
Municipal elections, no party ballot.....	186
Municipal elections, form of petition.....	190
Municipal elections, time and place of.....	181
Municipal election, tie vote, how decided.....	182
Municipal election, what elects in.....	182
Municipal initiative .....	188
Municipal nominations, how made.....	186
Municipal office, when deemed vacant.....	183
Municipal office, term of, commences when.....	183
Municipal recall .....	187
Municipal referendum .....	189
Municipal recall .....	183
Municipal vacancies, election to fill.....	185
Must vote the party ballot at the primary.....	213
Mutilating election returns. Penalty.....	204

## N

Names arranged on ballot, how.....	141
Names, arrangement of, on the primary election ballot.....	214
Names, arrangement of, Tally books at the primary.....	216
Names, candidates, publication of before the primary.....	236
Names of state officers.....	5
Names of voters on poll list.....	138
Name of candidate on ticket, when written.....	139
Name of candidate in one column.....	141
Name on certificate of nomination.....	144
Names of actual contributors entered, under election Privileges Act.....	226
Names on the primary ballot, how received.....	210
Names omitted from ballot, failure to file statement.....	228
Names placed on the official ballot.....	219
Names to be published. Error how corrected.....	148
Name, when person may cause, to be enrolled on primary day.....	208
National delegates, ballots for, issued by the Secretary of State.....	234
National delegates, primary election of.....	233
National delegates, county canvassing board canvassing votes for.....	234

	Page
National delegates, state canvassing board canvassing votes for.....	234
National delegates, traveling expenses of.....	235
New Municipal election on failure to qualify.....	182
Newspaper rates that can be charged for political announcements.....	232
Naturalization laws of the U. S.....	38
No civil process served on election day.....	165
No legislative expense in the matter of contest cases.....	175
No party ballot in municipal election.....	186
No person excused from testifying under the corrupt practice act.....	237
Nomination by stickers at the primary.....	211
Nomination at the primary, how contested, appeal.....	220
Nomination certificates where filed.....	144
Nomination certificates to contain one name.....	144
Nomination certificate, when filed.....	145
Nominations certified by the Secretary of State.....	146
Nomination, certificate of, Suppressing.....	201
Nomination for U. S. Senator at the primary.....	214
Nominations, municipal, how made.....	186
Nomination, percentages of votes required for, at the primary.....	214
Nominations to be published.....	146
Nominee declines, certificate void.....	146
Non partizan judiciary ballot.....	230
Non partizan school officers act.....	231
Non partizan judiciary act.....	230
Not repealed by primary law, what statutes.....	221
Notice of election to be published. Form. Posted when.....	148
Notice of meeting given by the township clerk.....	192
Notice of contest, how served.....	165
Notice of contest, answer to.....	166
Notice of contest in legislative election.....	172
Notice of election, how given.....	148
Notice in legislative election contests, answer to.....	173
Notice to party contested, how given.....	170
Notice to take depositions in contests.....	173
Notice to officers, elected or appointed, city auditor.....	182
Notice to electors, township, to contain what.....	192
Number of votes.....	134
Number of ballots furnished.....	142

## O

Oath and duties of judges and clerks of municipal election.....	182
Oath of office of election officer.....	138
Oath of office, commissioner in removal action, to file.....	241
Offers of office, how punished.....	196
Offer of bribe, communicating, penalty.....	196
Obstructing elector, penalty.....	197
Office or nomination, forfeited for corrupt practice, under election privileges act .....	229

	Page
Office, offers of, how punished-----	196
Office, term of, of township officers-----	191
Officers and witnesses, fees of, in contest cases-----	175
Officer, complaint or charges against, laid before the Governor-----	239
Officer, certain township, to be elected by ballot-----	193
Officer, defendant in removal action, served with copy of complaint---	240
Officer, election -----	136
Officers, election, bribing-----	202
Officer, failure of to perform duty, Penalty for-----	164
Officer, list of, to be nominated at the primary-----	215
Officers, oath of office-----	138
Officers, of election, their duties-----	136
Officers, removal of, by the Governor-----	239
Officer, removal of, time and place of hearing-----	240
Officer, rights of. Lawful interference-----	203
Officers to make returns, When. Compensation-----	153
Officers, township, when elected-----	191
Officer, what, voted for at primary election-----	205
Official ballot, names placed thereon-----	219
Official ballot, how given to the elector-----	149
Official directory -----	5
Officials, election. Compensation of-----	165
Official stamps for election officers-----	143
Omission of name in printing of ticket-----	148
One column for candidate name-----	141
One name on certificate-----	144
Only one person in the booth-----	150
Opening and closing of polls-----	149
Opening and closing of the township polls, proclamation-----	193
Order, preservation of, board of registry has power-----	180
Organization of township meetings-----	192

P

Pamphlet, publicity, under privileges act. Candidates statement-----	224
Papers in contest cases, production of, may be required-----	175
Papers in contest cases to be attached to deposition-----	175
Parties to contest, appearance by-----	171
Party ballot, must vote the, at the primary-----	213
Party casting highest number of votes-----	141
Party committees fill vacancies on the ballot for the primary-----	213
Party registration for the primary, required when-----	206
Party designation on the ballot-----	139
Party committees, what, continue under the primary act-----	222
Penal code is applicable to the primary law-----	222
Penalty for corrupt practice, under election privileges act-----	227
Penalty for false swearing, Election booths-----	151
Penalty for depositing unstamped ballot-----	164



	Page
Penalty for violation of election laws.....	165
Penalty for failure to attend and testify in contest cases.....	174
Penalty for registering in more than one precinct.....	180
Penalty for defrauding elector of vote.....	197
Penalty for obstructing elector.....	197
Penalty for double voting or offer.....	197
Penalty for voting when not qualified.....	197
Penalty for procuring unqualified vote.....	198
Penalty for advising unqualified voting.....	198
Penalty for voting in the wrong precinct or district.....	198
Penalty for unlawfully voting at a town meeting.....	198
Penalty for a convicted felon voting.....	198
Penalty for unauthorized registration.....	198
Penalty for personating a registered voter.....	198
Penalty for disturbance of a meeting of electors.....	199
Penalty for preventing public meeting of electors.....	199
Penalty for preventing attendance at meeting of electors.....	199
Penalty for offering violence or making threat to electors.....	200
Penalty for disobedience of election officers.....	200
Penalty for riotous conduct at an election.....	200
Penalty for destroying ballots or boxes.....	201
Penalty for suppressing certificates of nomination.....	201
Penalty for destroying lists, cards or supplies.....	201
Penalty for keeping a false poll list.....	201
Penalty for misconduct of judges as to challenges.....	202
Penalty for falsely canvassing or certifying.....	202
Penalty for bribing election officers.....	202
Penalty, disfranchisement, for bribing an elector.....	202
Penalty for unlawful voting at a caucus.....	203
Penalty for mutilation of election returns.....	204
Penalty, general, for violation of provisions of election privileges act.....	229
Penalty for violating the absent voter privilege.....	247
Penalty for rejecting legal vote.....	164
Penalty for failure of officer to perform duty.....	164
Penalty for making false statement preventing registration.....	199
Penalty for intimidating electors.....	199
Penalty, giving or receiving bribes by elector.....	195
Penalty, illegal influence, elector.....	196
Penalty, betting upon election.....	196
Percentages of votes required for nomination at the primary.....	214
Per diem and mileage of Presidential electors.....	164
Person, one only, in the booth.....	150
Personating registered voter.....	198
Petition of the candidate for the primary, filing of.....	210
Petition, form of, under the primary law.....	211
Petitioner in contest cases, effect of failure to appear.....	172
Petitions, form of, in municipal elections.....	190
Petitions, candidates for national delegates file.....	234

	Page
Petition required for primary election.....	205
Petition, fees, for filing at primary election.....	205
Petition of candidates at the primary.....	209
Place of meeting of the county and state committees under the pri- mary .....	222
Pledge and filing fee of candidate at the primary.....	209
Political advertising labeled paid, under election privileges act.....	228
Political announcements, rates for.....	232
Polls at the primary election, open when, canvass.....	216
Polls, list for the primary delivered to the board of registration.....	216
Polls, township, proclaiming as to opening and closing of.....	193
Poll clerks .....	138
Poll list, clerk to keep.....	138
Poll books furnished by the court auditor.....	142
Poll books, contents of and how delivered.....	143
Polls, when opened and closed.....	149
Poll list, township.....	194
Poll list, false.....	201
Posting of instructions.....	143
Posting of certain ballots.....	143
Posting of election notice.....	148
Posting of notices as to candidates for the primary.....	236
Powers of electors of the township.....	191
Practice, corrupt, act.....	237
Precinct committee men, how elected under the primary.....	222
Pre-election promises of appointment, under election privileges act....	226
Precincts, election .....	135
Precincts, how formed.....	135
Precinct, new, registry list in.....	177
Precinct or district, wrong, voting in.....	198
Preparation of the primary election ballot, how.....	214
Preparation of ballots.....	139
Present election statutes apply to the primary law.....	221
Presidential electors. Canvass of votes as to.....	159
Presidential electors, convene when, Vacancies, how filled.....	163
Presidential electors, contests of, what court.....	170
Preservation of order, board of registry has power.....	180
Presidential electors, per diem and mileage of.....	164
Preventing a public meeting of electors.....	199
Preventing attendance at a public meeting of electors.....	199
Primary, abstract of votes at, to the Secretary of State.....	218
Primary act is valid.....	222
Primary act, what party committees continue under.....	222
Primary ballot, names on. How secured.....	210
Publication of nominations.....	210
Primary campaign expenses limited under the election privileges act....	224
Primary, county and state committees under, how selected.....	222
Primary election law.....	205

	Page
Primary election law, intent of.....	205
Primary election, held when.....	205
Primary election, what offices voted for.....	205
Primary election, petition required.....	205
Primary election, fees for filing petition.....	205
Primary election, registration for, required when.....	206
Primary election, registration and enrollment books.....	207
Primary election, county and legislative candidates for.....	209
Primary election, petition of the candidates.....	209
Primary election, filing fee and pledge of candidates at.....	209
Primary election, nomination by stickers.....	211
Primary election, eligibility of candidates at.....	211
Primary election, form of ballots at.....	211
Primary election, duties of the judges and inspectors at.....	211
Primary election, must vote the party ballot at.....	213
Primary election ballots, prepared how.....	214
Primary election, nomination of U. S. Senator at.....	214
Primary election ballot, arrangement of the names on.....	214
Primary election, list of officers to be nominated at.....	215
Primary election, tally books for, arrangement of names.....	216
Primary election, polls open when, Canvass.....	216
Primary election, returns from, Statement as to.....	216
Primary election, polls list for, delivered to registry board.....	216
Primary election, county canvassing board for.....	217
Primary election, state board canvassers at.....	218
Primary election ballot, vacancies, how filled.....	219
Primary election, ballot, error as to, how corrected.....	220
Primary election, contest of nominations at.....	220
Primary election for national delegates, when held.....	235
Primary election of national delegates.....	233
Primary election, publication of candidates names before.....	236
Primary election, certified list of candidates issued before.....	236
Primary election, candidates for, posting notices as to.....	236
Primary law, form of the petition.....	211
Primary law, fees under, paid to the county.....	221
Primary law, penal code is applicable to.....	222
Primary law, what statutes are not repealed by.....	221
Primary law, what general election provision applicable to.....	215
Primary, percentages of votes required for nomination at.....	214
Primary, precinct committeemen under the, how elected.....	222
Primary, result of, statement as to, by the state board of canvassers.....	219
Primary, statement of the canvassing board.....	217
Primary, tie vote at, decided how.....	221
Printed instructions to be used at elections.....	143
Primary, what election statutes apply to.....	221
Printed ballots, auditor to supply.....	139
Printing of ballots.....	138
Printing of the absent voter ballot.....	243



	Page
Printing Statements, under election privileges act.....	225
Privileges act, election.....	224
Privileges, election, primary campaign expenses limited under.....	224
Privileges, election, act, rates for statements in.....	224
Privileges, election, act, publicity pamphlet under, statement of the candidate .....	224
Privileges, election, printing statements under.....	225
Privileges, election, addresses of voters.....	225
Privileges, election, general election campaign expenses limited under	226
Privileges, election, itemized statements filed under.....	226
Privileges, election, actual contributors' names entered.....	226
Privileges, election, pre-election promises of appointment.....	226
Privileges, election, charitable contributions by candidates.....	226
Privileges, election, campaign contributions by corporations prohibited	227
Privileges, election, treating.....	227
Privileges, election, penalty for corrupt practice.....	227
Privileges, election, expense of voting, transporting prohibited.....	228
Privileges, election, political advertising labeled paid.....	228
Privileges, election, failure to file statement under.....	228
Privileges, election, candidacy bona fide.....	229
Privileges, election, corrupt practice under.....	229
Privileges, election, commencement of contest.....	229
Privileges, election, general penalty for violation of.....	229
Procuring unqualified vote, penalty for.....	198
Proclamation of opening and closing of township polls.....	193
Process, no civil, served on election day.....	165
Procedure followed by the canvassers.....	161
Proceeding of board of registration, to be public.....	178
Procedure and testimony, in contests.....	167
Proceedings when township meeting fails to elect.....	195
Proclamation of result of vote by governor.....	161
Production of papers in contest cases may be required.....	175
Prohibition of campaign contributions by corporations under election privileges act .....	227
Proposed constitutional amendments.....	120
Provisions of code of civil procedure applicable when.....	169
Prosecution under corrupt practice act, where brought.....	238
Provisions of the general election law applicable to the primary law..	215
Public meetings, disturbance of.....	199
Public meeting of electors, preventing.....	199
Public canvass of the votes by state canvassing board.....	158
Publication of names. Error, how corrected.....	148
Publication of election notice.....	148
Publication of the returns.....	155
Publication of nominations.....	146
Publication of candidates name before primary election.....	236
Publication of list of candidates before the primary.....	236
Publicity pamphlet, candidates statement under privileges act.....	224

	Page
Publicity pamphlet, rates for statement in.....	224
Punishment, no, for bribery witness.....	202
Punishment for advising violation of corrupt practice act.....	238

## Q

Qualifications of Indian voters.....	134
Qualifications of poll clerks.....	138
Qualifications of the voter.....	134
Qualifications of the election officer.....	136
Qualifications of the township voter.....	193
Qualified voters, in municipality, registration.....	181
Qualified electors, list of.....	176
Questions submitted to voters. Criminal acts.....	203
Question vote, duty of inspector or judge to.....	138

## R

Rates for political announcements.....	232
Rates for statement of candidate in the publicity pamphlet.....	224
Recall, municipal .....	183
Recall, municipal .....	187
Receiving vote from person not on registry list.....	178
Record of result of vote as to constitutional amendments.....	160
Record, public, registers to remain.....	179
Referee may try contests.....	168
Referendum, municipal .....	189
Registers, what to contain.....	176
Register must be filed.....	179
Registers to remain public record.....	179
Registers and blanks, county auditor to provide.....	180
Registered voter, personating.....	198
Registering in more than precinct, penalty for.....	180
Registration board, second meeting.....	177
Registration of voters.....	176
Registration board, proceedings of, to be public.....	178
Registration statute, what cities governed by.....	181
Registration of voters in municipality.....	181
Registration, false statement preventing.....	199
Registration, unauthorized, how punished.....	198
Registration, constructive false statements as to.....	199
Registration, party, for primary, required when.....	206
Registration and enrollment books for primary election.....	207
Registry board, poll list for primary delivered to.....	216
Registry list in new precinct.....	177
Registry list to be revised.....	178
Rejection of legal vote, penalty for.....	164
Rejected or void absent voter ballots.....	246

	Page
Removal of county seat, contests of election for.....	167
Removal from municipal office.....	185
Removal of officer by the Governor.....	239
Removal of officer, commissioner to take testimony for.....	239
Removal of officer, copy of complaint served upon the defendant.....	240
Removal of officer, time and place of hearing.....	240
Removal of officer, fees paid to commissioner in.....	241
Removal of officer action, commissioner to file oath.....	241
Removal of officer, action for, costs of, assessed how.....	242
Removal of officer, certificate of Governor as to costs of.....	242
Repealed, not, by primary law, what statutes.....	221
Representative districts .....	18a
Resignations and vacancies, Special election.....	162
Result of election proclaimed by the Governor.....	161
Result of canvass to be immediately announced.....	152
Result of canvass, certificates as to.....	159
Return. How and where made. Compensation of officers.....	153
Returns, canvassing of.....	151
Return, Publication of.....	155
Returns, What, shall be canvassed.....	161
Returns, informality in, disregarded.....	161
Returns, defective .....	161
Returns indorsed by the Secretary of State.....	162
Returns, election. Mutilations of. Penalty.....	204
Returns from the Primary, statement of.....	216
Revision of registry list.....	178
Right of an officer. Lawful interference.....	203
Right to vote.....	134

S

School officers act, non-partizan.....	231
Second meeting, board of registration.....	177
Secret ballot. Electioneering prohibited.....	164
Separate ballot boxes for women voters.....	144
Secretary of State to receive nomination petition.....	144
Secretary of State to receive nomination certificate.....	145
Secretary of State to certify nomination for state office.....	146
Secretary of State to file abstract of votes.....	157
Secretary of State to issue certificates as to election.....	159
Secretary of State indorses election returns.....	162
Secretary of State, abstract of votes at primary to.....	218
Secretary of State issues certified list of candidates before the primary	236
Secretary of State, transmits blanks.....	144
Selling liquors on election day.....	203
Senator U. S., nomination of, at the primary.....	214
Senatorial districts .....	18a
Separate boxes for women's ballots.....	151



	Page
Serving of notice in case of election contest.....	165
Special election in case of resignations or vacancies.....	162
Specal township meetings, held when.....	192
Spoiling of the ballot by the voter.....	150
Stamps, official, for the officers.....	143
State board of canvassers, how constituted.....	156
State board of canvassers for the primary election.....	218
State canvassing board, meeting of.....	158
State canvassing board, duty of.....	158
State canvassing board, adjournment of.....	158
State canvassing board, public canvass by.....	158
State canvassing board to issue certificates as to result.....	159
State canvassing board, duty as to presidential electors.....	159
State canvassing board canvassing votes for national delegates.....	234
State constitution .....	58
Statement as to the return from the primary election.....	216
Statement of the canvassing board for the primary. Contests.....	217
Statement of the board of canvassers on result of the primary.....	219
Statement of the candidate under the privileges act.....	224
Statement of the candidate, rates for, in the publicity pamphlet.....	224
Statements, printing of, under election privileges act.....	225
Statements, itemized, filed under election privileges act.....	226
Statement failure to file. Name omitted from ballot.....	228
Statement, false, preventing registration.....	199
Statutes relating to naturalization.....	38
Statutes, present election, apply to the primary law.....	221
Stickers, nomination by, at the primary.....	221
Subpena to compel attendance of witnesses.....	173
Subpena in contest cases, how served.....	174
Supplies, lists or cards, destroying of.....	201
Suppressing certificates of nomination.....	201
Surety for costs must be furnished in cases of contest.....	168
Swearing, false, Penalty. Election booths.....	151

## T

Taking testimony in contest cases may be adjourned.....	175
Tally books for the primary election. Arrangement of names.....	216
Taxation of costs in contest proceedings.....	172
Term of office, municipal elections, effect of.....	182
Term of district court.....	20
Term of residence as right to vote.....	134
Term of office of township officers.....	191
Term of municipal office, commences when.....	183
Testimony and procedure in contests.....	167
Testimony in contest cases must be confined to issue.....	174
Testimony in contest cases must be reduced to writing.....	174
Testimony in contest cases to be forwarded to Secretary of State.....	175

	Page
Testimony, no person excused from giving, under corrupt practice act.....	193
Testimony taken, when, in contest cases.....	173
Testimony taken at only two places at a time. Contests.....	173
Testimony, taking of, in contest cases, may be adjourned.....	175
Threats, violence, of electors.....	200
Ticket, filling vacancy after printed.....	147
Ticket, vacancies how filled.....	146
Tie vote at the primary, decided how.....	221
Tie vote, municipal election, how decided.....	182
Tie vote, duty of the county auditor.....	156
Tie vote how decided.....	155
Time of posting election notice.....	148
Time when returns are to be made. Compensation of officers.....	153
Time and place of municipal elections.....	181
Time and place of meeting of county and state committees under the primary .....	222
Time limit for contest commencement, under election Privileges act.....	229
Township ballots to be deposited by the judges.....	194
Township clerk, duty of.....	195
Township electors, power of.....	191
Township candidates, all, to be on one ballot.....	194
Township election, result of to be announced.....	194
Township meetings, annual, when held.....	190
Township meetings, special, held when.....	192
Township meeting, notice of, given by the township clerk.....	192
Township meetings, mode of conducting.....	192
Township meeting, minutes of, to be filed.....	194
Township meetings, proceedings of, when failure to elect.....	195
Township meeting, unlawfully voting at.....	198
Township moderator, duty of, reconsideration of the vote.....	193
Township officers, when elected.....	191
Township officers, term of office of.....	191
Township poll list .....	194
Township voter, qualifications of.....	193
Township voter, challenge to.....	193
Township votes, canvassed by the judges of the election.....	194
Township votes, manner of canvassing.....	194
Transmission of blanks by the Secretary of State.....	144
Transmission of the absent voter ballot to the inspector of election.....	245
Transportation prohibited, expense of voting. Election privileges act.....	228
Traveling expenses of the national delegates.....	235
Treating, under election privileges act.....	227
Trial of contest before referee.....	168
Trial of contest.....	167
Two or more counties in the primary election district, when.....	218

## U

	Page
Unauthorized registration, how punished.....	198
United States citizenship.....	36
United States Constitution.....	21
Unlawful voting at a caucus, Penalty.....	203
Unlawfully voting at a town meeting.....	198
Unqualified vote, procuring.....	198
Unqualified voting, advising.....	198
Unqualified voter .....	197
Unstamped ballot, penalty for depositing.....	164

## V

Vacancies and resignations. Special election.....	162
Vacancies, canvass and returns of election to fill.....	163
Vacancies, duty of the governor in cases of certain.....	163
Vacancies municipal, election to fill.....	185
Vacancy occurring after tickets are printed.....	147
Vacancies on ticket, how filled.....	146
Vacancies on the primary ballot.....	210
Vacancies on primary ballot filled by the party nominees.....	213
Vacancies on the primary election ballot, how filled.....	219
Vacancies, Presidential electors.....	163
Vacant, municipal office deemed when.....	183
Valid, primary law is.....	222
Violation of election laws, penalty for.....	165
Violence disturbing election.....	200
Violence, threats etc., of electors.....	200
Voters, addresses of, under election privileges act.....	225
Violation of the corrupt practice act. Punishment for advising.....	238
Violation of the absent voter privilege, penalty for.....	247
Void, ballots, when.....	152
Void, certificate when.....	146
Void or rejected absent voter ballots.....	246
Vote, tie, duty of the county auditor.....	156
Vote, legal, penalty for depositing.....	164
Vote on constitutional amendments, record of.....	160
Vote from person not on registry list, receiving.....	178
Vote, tie, at the primary, decided how.....	221
Vote, elector may, before leaving the county.....	246
Voters, their right to vote in the state.....	134
Voters, Indian, their Rights.....	134
Voters names on poll list.....	138
Voter, disability of.....	150
Voters, registration of.....	176
Voter, township, qualification of.....	193
Voter, township, challenge to.....	193



	Page
Voter unqualified .....	197
Voter, good faith of. Evidence as to.....	203
Voters, questions submitted to. Criminal acts.....	203
Voters, absent .....	243
Voter, absent, ballots. How printed.....	243
Voter, absent, ballot. Form of application for.....	243
Voter, absent, ballot, application blank for.....	244
Voter, absent, ballot, sent how.....	244
Voter, absent, affidavit of. Certificates as to.....	244
Voter, absent, ballot, manner of marking.....	245
Voter, absent, ballot, care of by the county auditor.....	245
Voter, absent, ballot, transmission of, to the inspector.....	245
Voter, absent, time for application for ballots.....	243
Voter, absent, ballots, void or rejected.....	246
Voter, absent, ballots, furnished the county auditor when.....	247
Voter, absent, privilege, penalty for violating.....	247
Votes constituting election.....	134
Votes, canvassing of.....	151
Votes, abstract of, forwarded by the county auditor.....	157
Votes, abstract of, filed by the Secretary of State.....	157
Votes, canvass of, to be public.....	158
Votes, reconsideration of township.....	193
Votes, township, canvassed by the election judges.....	194
Votes, canvass of at the primary.....	216
Votes, statement as to the returns of, at the primary.....	216
Votes, abstract at primary to the Secretary of State.....	218
Votes, abstract of.....	155
Voting, unqualified, advising.....	198
Voting in the wrong precinct or district.....	198
Voting unlawfully at a town meeting.....	198
Voting, unlawful, at a caucus. Penalty.....	203
Voting, expense of, transportation prohibited, under election privileges act .....	228
Voting, manner of, the absent voter ballot.....	246

## W

What constitutes election precinct.....	135
What returns shall be canvassed.....	161
What application in case of contest must include.....	170
What cities governed by registration statute.....	181
What elects in municipal election.....	182
What notice of township clerk to electors to contain.....	192
What offices voted for at primary election.....	205
When polls are to be opened and closed.....	149
When member of canvassing board is disqualified.....	157
When presidential electors convene. Vacancies how filled.....	163
When board of Registry shall meet.....	176

	Page
When term of municipal office commences.....	183
When municipal office deemed vacant.....	183
When person may cause name to be enrolled on primary day.....	208
When primary election for national delegates is held.....	235
Who entitled to vote.....	134
Who may bring contest.....	166
Who are entitled to vote at township election.....	193
Who may vote. Absent voters.....	243
Witnesses in contest cases, attendance of, subpoena.....	173
Witnesses, non-resident, deposition may be taken.....	174
Witnesses, examination of, in contest cases.....	174
Witnesses and officers, fees of, in contest cases.....	175
Witnesses, in bribery hearing not excused.....	202
Women's ballots deposited in separate box.....	151
Writing name of candidate on ticket.....	139
Wrong precinct or district, voting in.....	198























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